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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
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3 UNITED STATES OF AMERICA,

4 v.

23 Cr. 490 (SHS)

5 ROBERT MENENDEZ,
6 WAEL HANA, a/k/a "Will Hana,"
and FRED DAIBES,

7 Defendants.

Trial

9 New York, N.Y.
10 June 20, 2024
11 10:25 a.m.

12 Before:

13 HON. SIDNEY H. STEIN,

14 District Judge
15 -and a Jury-

16 APPEARANCES

17 DAMIAN WILLIAMS

18 United States Attorney for the
Southern District of New York

19 BY: PAUL M. MONTELEONI
DANIEL C. RICHENTHAL
ELI J. MARK
LARA E. POMERANTZ
CATHERINE E. GHOSH
20 Assistant United States Attorneys
-and-
CHRISTINA A. CLARK
21 National Security Division

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1 APPEARANCES CONTINUED
2
34 PAUL HASTINGS LLP
5 Attorneys for Defendant Menendez
6 BY: ADAM FEE
7 AVI WEITZMAN
8 ROBERT D. LUSKIN
9 RITA FISHMAN10 GIBBONS, P.C.
11 Attorneys for Defendant Hana
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13 ANNE M. COLLART
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15 ANDREW J. MARINO
16 RICARDO SOLANO, Jr.
17 ELENA CICOGNANI
18 JESSICA L. GUARRACINO19 CESAR DE CASTRO
20 SETH H. AGATA
21 SHANNON M. McMANUS
22 Attorneys for Defendant Daibes23 Also Present: Marwan Abdel-Rahman
24 Rodina Mikhail
25 Interpreters (Arabic)Rachel Wechsler
Connor Hamill
Braden Florczyk
Paralegal Specialists, U.S. Attorney's Office

Justin Kelly, DOAR

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Van Wie - Direct

1 (Trial resumed; jury present)

2 THE COURT: Please be seated in the courtroom.

3 Good morning, ladies and gentlemen. Welcome. Let's
4 try to have a full day of testimony. We'll go right through to
5 the summer solstice, 5 o'clock.

6 Government, call your next witness.

7 MR. MONTELEONI: The government calls Special Agent
8 Paul Van Wie.

9 THE COURT: Does the government have a revised 1304
10 for the Court in hard copy? Only if you have an extra.

11 PAUL VAN WIE,

12 called as a witness by the government,

13 having been duly sworn, testified as follows:

14 THE COURT: You may be seated, Mr. Van Wie, and
15 welcome.

16 THE WITNESS: Thank you.

17 THE COURT: Your witness, Mr. Monteleoni.

18 DIRECT EXAMINATION

19 BY MR. MONTELEONI:

20 Q. Good morning.

21 Are you currently employed?

22 A. Yes.

23 Q. Where do you work?

24 A. Federal Bureau of Investigation.

25 Q. What's your title at the FBI?

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Van Wie - Direct

1 A. Special agent.

2 Q. How long have you been at the FBI?

3 A. Just over four and a half years.

4 Q. What did you do before the FBI?

5 A. I was an attorney.

6 Q. Now, what unit are you currently assigned to in the FBI?

7 A. I'm on one of the public corruption squads in the New York
8 field office.

9 Q. Have you ever heard of a senator named Robert Menendez?

10 A. Yes.

11 Q. Was your public corruption squad involved in an
12 investigation of Robert Menendez?

13 A. No, not directly.

14 Q. Was another public corruption squad at the FBI involved in
15 such an investigation?

16 A. Yes.

17 Q. Did you assist that squad with a few tasks in the
18 investigation?

19 A. I did.

20 Q. What did you do to prepare to testify today?

21 A. I was asked to review a chart, and in doing so, I reviewed
22 each line of that chart and compared the information in there
23 to the government exhibits that were cited at the end of the
24 lines.

25 Q. Were there a few different summary documents that you were

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Van Wie - Direct

1 asked to review?

2 A. There were.

3 Q. Who drafted those summary documents?

4 A. The U.S. Attorney's Office.

5 Q. Did you verify that all of the information in those summary
6 documents was drawn from the source documents that you
7 reviewed?

8 A. I did.

9 Q. And about how many of those source documents are government
10 exhibits?

11 A. All of them.

12 Q. What types of government exhibits did you review to verify
13 these summary documents, generally?

14 A. There were text messages. There were emails, phone
15 records, among other things.

16 Q. Collectively, about, roughly, how many pages would you say
17 the text messages were?

18 A. Hundreds.

19 Q. Collectively, about how many pages were the phone records?

20 A. Thousands.

21 Q. Who made the decision what exhibits you'd review?

22 A. The U.S. Attorney's Office.

23 Q. Do you believe that you've reviewed all of the documents
24 that the others in the public corruption squad gathered in
25 their investigation?

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1 A. I have not.

2 Q. Who made the decision what exhibits would be referred to in
3 the summary documents?

4 A. The U.S. Attorney's Office.

5 MR. MONTELEONI: At this time, your Honor, we offer
6 Government Exhibits 4F through 4F3, 4F6, 4F13, 4F14, 4F16,
7 4F17, 4F19, 4F20, 4F23 through 4F26 and 4F28 through 4F32,
8 subject to connection.

9 THE COURT: Admitted.

10 (Government Exhibits 4F through 4F3, 4F6, 4F13, 4F14,
11 4F16, 4F17, 4F19, 4F20, 4F23-4F26 and 4F28-4F32 received in
12 evidence)

13 MR. MONTELEONI: Now we offer the remaining exhibits
14 that are cited in Government Exhibit 1304. We offer the
15 exhibits that are cited in Government Exhibit 1351, and we
16 offer Government Exhibits 10C3, 10J4, A132 and A132A, B216-2,
17 B216-3, B216-A and the stipulation that's Government Exhibit
18 1402.

19 THE COURT: Admitted.

20 MR. WEITZMAN:

21 (Government Exhibits 10C3, 10J4, A132, A132A, B216-2,
22 B216-3, B216-A and 1402 received in evidence)

23 MR. WEITZMAN: Your Honor, just one moment?

24 THE COURT: Yes.

25 MR. WEITZMAN: Thank you, your Honor.

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1 MR. MONTELEONI: Mr. Hamill, could you please show the
2 witness the documents that are marked for identification as
3 Government Exhibits 1304 and 1351.

4 Q. Special Agent Van Wie, do you recognize those documents?

5 A. I do.

6 Q. Are those summary charts that you verified?

7 A. Yes.

8 Q. Did you verify that all of the information in those
9 documents is drawn from the government exhibits that are cited
10 in the documents?

11 A. Yes.

12 MR. MONTELEONI: We offer Government Exhibit 1304 and
13 Government Exhibit 1351 in evidence.

14 THE COURT: Admitted.

15 (Government Exhibits 1304 and 1351 received in
16 evidence)

17 MR. MONTELEONI: Mr. Hamill, could you please publish
18 the first page of Government Exhibit 1304.

19 Q. Special Agent Van Wie, what are we looking at here?

20 A. This is the summary chart that was prepared by the U.S.
21 Attorney's Office that I reviewed and compared the government
22 exhibits that are cited at the end of the lines to the content
23 that is contained within each one.

24 Q. Directing your attention to the top line, where it says
25 October 30, 2018, to May 26, 2022, does this chart list

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Van Wie - Direct

1 everything that's recorded on the documents you reviewed as
2 happening within that date range?

3 A. No.

4 Q. Did you pick which events within that date range to put on
5 the chart?

6 A. No.

7 Q. Did you pick that date range?

8 A. No.

9 Q. Who did pick those things?

10 A. The U.S. Attorney's Office.

11 MR. MONTELEONI: Mr. Richenthal, before we get
12 started, could you please put up Government Exhibits 2A-1, 2A-2
13 and 2A-4 on the board.

14 Q. While that's happening, Special Agent Van Wie, directing
15 your attention to line 1, what is the date listed on line 1 of
16 Government Exhibit 1304?

17 A. October 30, 2018.

18 Q. Directing your attention to the detail cell, you don't need
19 to read the cell itself, but could you please read just the
20 number of the government exhibit that's cited?

21 A. "GX 1401."

22 MR. MONTELEONI: Let's look at Government Exhibit
23 1401.

24 Mr. Hamill, can you please put up Government Exhibit
25 1401, the bottom of page 1 and the top of page 2.

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1 I'll now read paragraphs 1, 1a. and 1b. of Government
2 Exhibit 1401:

3 "1. If called to testify as a witness, a lawyer who
4 represented Fred Daibes in another matter ('Daibes's counsel')
5 would testify as follows:

6 "On or about October 30, 2018, indictment No. 18 Cr.
7 655 was filed in the United States District Court for the
8 District of New Jersey, charging Fred Daibes and another
9 defendant with an alleged fraudulent lending scheme. This
10 indictment initiated the case captioned United States v.
11 Daibes, et al., criminal No. 18-655-SDW, pending in the
12 District of New Jersey ('the Daibes DNJ prosecution') which was
13 prosecuted by the U.S. Attorney's Office for the District of
14 New Jersey; and

15 "b. Prior to the commencement of the Daibes DNJ
16 prosecution in October 2018, Daibes's counsel gave a
17 presentation to the United States Attorney for the District of
18 New Jersey, Craig Carpenito, and First Assistant United States
19 Attorney Rachael Honig, among others, during which Daibes's
20 counsel advocated against criminal charges being brought
21 against Daibes."

22 Mr. Hamill, could you please put back up Government
23 Exhibit 1304, page 1.

24 Q. Special Agent Van Wie, directing your attention to line 10,
25 who is this message from and to?

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Van Wie - Direct

1 A. The message is from Michael Soliman to Robert Menendez.

2 Q. What is the date of this message?

3 A. December 4, 2020.

4 Q. I'm not going to ask you to read them, but do lines 2
5 through 9 reflect other communications between Soliman and
6 Menendez earlier in 2020?

7 A. Yes.

8 Q. Now, in line 10, could you please read just the first word
9 in the detail cell before the quotation?

10 A. "Signal."

11 Q. Could you please read what's reflected here as this
12 December 4, 2020, message from Soliman to Menendez?

13 A. "Maybe now is a good time to give Wildstein a green light
14 on that U.S. Attorney story, that you'll be the person picking
15 whoever it is in conjunction with Cory. Just know that he will
16 mention Sellinger as a short lister and he got that on his own.
17 He also has others on the list that he's wrong about, but he
18 doesn't know that."

19 Q. Now, let's go to line 11, which is listed as three days
20 later. On December 7, 2020, who sends Menendez a text message
21 at 4:51 p.m.?

22 A. Philip Sellinger.

23 Q. Could you please read what Sellinger texts Menendez?

24 A. "Bob, I hope all is well. Is there a convenient time for
25 you and I to have a call to catch up? Thanks. Philip."

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Van Wie - Direct

1 Q. Directing your attention to line 12, can you please read
2 what's listed as Menendez's response at 5:02 p.m. that day?

3 A. "Absolutely. We need to do so. How is right now?"

4 Q. On line 13, can you please read Sellinger's response at
5 5:03 p.m.?

6 A. Sure.

7 Q. Moving on to line 14, what is the date and time of the text
8 on line 14?

9 A. December 7, 2020, at 6:40 p.m.

10 Q. About how long is that after that last text you just read
11 between Sellinger and Menendez?

12 A. It was about an hour and 40 minutes or so.

13 Q. Can you please read what a Fred Turner texts Menendez at
14 6:40 p.m.?

15 A. "Sellinger has his meeting with Booker scheduled."

16 Q. Directing your attention to line 15, can you please read
17 what Robert Menendez is listed as texting Philip Sellinger on
18 December 10, 2020, at 5:09 p.m.?

19 A. Quote, "Justice In Policing Act, Justice for Victims of
20 Lynching Act. Second Look Act. First Step Act. Next Step
21 Act. Break the Cycle of Violence Act, and Emergency Community
22 Supervision Act."

23 Q. Can you please read Sellinger's response on line 16?

24 A. "Thank you."

25 MR. MONTELEONI: Mr. Hamill, could you please scroll

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Van Wie - Direct

us down to the bottom of page 1 and the top of page 2.

Q. Directing your attention, Special Agent Van Wie, to lines 17 through 22, whose search and web activity history is reflected on these lines?

A. Robert Menendez.

Q. Directing your attention just to line 17, what's the date and time of that entry from Menendez's search history?

A. It's December 11, 2020, at 3:47 p.m.

Q. Could you please read that search history entry?

A. "NJ u.S. Attorney."

Q. I'm not going to ask you to read them all out loud, but do the next few lines reflect search and web activity history concerning the U.S. Attorney's Office for the District of New Jersey?

A. Yes.

MR. MONTELEONI: You can take us to page 2 fully, Mr. Hamill. Thank you.

Q. Directing your attention to line 23, can you please read what Soliman is listed as writing Menendez via Signal, just the first sentence of it -- on December 14, 2020, at 4:31 p.m.?

A. "Carpenito made public that he's leaving via press release from DOJ."

Q. Directing your attention to line 30, can you please read the date?

A. "December 15, 2020."

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1 Q. And who does Menendez call at 11:54 a.m. on December 15,
2 2020, according to this line?

3 A. Fred Daibes.

4 Q. How long does that call last?

5 A. One second.

6 Q. Directing your attention to the next line, how long does
7 Daibes's call back to Menendez at 12:25 p.m. last?

8 A. 34 seconds.

9 Q. Directing your attention to line 32, could you please read
10 the detail cell?

11 A. "Menendez calendar," quote, "'meeting with Phil
12 Sellinger.'"

13 Q. What is the listed date and time of the meeting with Phil
14 Sellinger?

15 A. 2:30 p.m. to 3 p.m.

16 Q. On what date?

17 A. December 15, 2020.

18 Q. How does that compare to the date and time of Menendez's
19 calls with Daibes on the previous line?

20 A. It was the same day, approximately two hours after.

21 Q. Special Agent Van Wie, directing your attention to line 34,
22 what is the date?

23 A. December 17, 2020.

24 Q. How does that date compare to the date of the calendar
25 entry we just looked at in Menendez's calendar for a meeting

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Van Wie - Direct

1 with Phil Sellinger?

2 A. Two days later.

3 Q. Who is the voice mail reflected in line 34 to, according to
4 the chart?

5 A. To Robert Menendez.

6 MR. MONTELEONI: I'd like to play the voice mail, but
7 with the Court's permission, I'd like to ask Mr. Hamill to
8 display Government Exhibit A119-A-TR as an aid to the jury.

9 THE COURT: You may.

10 Ladies and gentlemen, you'll remember this process
11 from the week before last. TR indicates it's not actually in
12 evidence. It's simply an aid, or the better way for me to say
13 it is it's an aid; if what you hear is different from what's on
14 that transcript, you should follow what you hear.

15 OK.

16 MR. MONTELEONI: Thank you.

17 Mr. Hamill, could you please put that up and could you
18 please play Government Exhibit A119-A, when you're ready.

19 (Media played)

20 THE COURT: Now, with the permission of the parties,
21 with the consent of the parties, I'm not going to give that
22 instruction regarding the transcripts each and every time it
23 comes up.

24 Government, consent?

25 MR. MONTELEONI: Absolutely, your Honor.

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Van Wie - Direct

1 MR. WEITZMAN: Yes, your Honor.

2 MR. LUSTBERG: No objection.

3 MR de CASTRO: Yes, your Honor.

4 THE COURT: All right. So we've saved some time.

5 MR. MONTELEONI: Mr. Hamill, can you please take us
6 back to Government Exhibit 1304, page 2.

7 Q. Now, directing your attention back to line 34, can you
8 please read the time of the voice mail from Sellinger to
9 Menendez that we just heard?

10 A. It was 8:59 a.m.

11 Q. Directing your attention to line 35, can you please read
12 the date and time?

13 A. "December 17, 2020, at 10:49 a.m."

14 Q. How does that compare to the time of the voice mail from
15 Sellinger to Menendez that we just listened to?

16 A. It was approximately two hours later.

17 Q. Now, according to this line, what does Menendez do at 10:49
18 a.m.?

19 A. He calls Philip Sellinger.

20 Q. How long does that call last?

21 A. Three minutes.

22 MR. MONTELEONI: Mr. Hamill, can you please put up
23 Government Exhibit 1351.

24 Q. Special Agent Van Wie, is this another of the charts that
25 you verified?

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Van Wie - Direct

1 A. It is.

2 Q. So, where it says, calls between Robert Menendez numbers
3 and Sellinger's cell phone, December 15-17, 2020, up top, what
4 does that mean?

5 A. It means this is a list of the phone calls between Robert
6 Menendez and Philip Sellinger's cell phone, or phone number,
7 between that date range.

8 Q. So directing your attention to the entry for December 15,
9 2020, what does that mean?

10 A. That there were no calls with the Robert Menendez phone
11 numbers identified in the government exhibit and Philip
12 Sellinger on that date.

13 Q. And how does that date, December 15, 2020, compare to the
14 date of the meeting with Phil Sellinger in Menendez's calendar
15 that we looked at previously?

16 THE WITNESS: Is it possible to go back to the chart?

17 MR. MONTELEONI: Yes.

18 Mr. Hamill, please put up to one side page 2 of
19 Government Exhibit 1304.

20 THE WITNESS: Thank you.

21 A. It is the same day.

22 Q. Directing your attention to --

23 MR. MONTELEONI: You can leave that up, Mr. Hamill.
24 Thank you.

25 Q. Directing your attention to the entry for December 16,

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Van Wie - Direct

1 2020, in Government Exhibit 1351, what does that mean?

2 A. Again, there were no calls between the Robert Menendez
3 phone numbers and Philip Sellinger's phone number on that date.

4 Q. Directing your attention to the entry for December 17,
5 2020, what does that entry mean?

6 A. There were two phone calls made between Robert Menendez and
7 Philip Sellinger on this date.

8 Q. Directing your attention to the first one, can you please
9 read the quoted text at the end of the line for the 8:58 a.m.
10 entry?

11 A. Quote, "VM deposit."

12 Q. Can you please read the quote at the end of the second line
13 at 10:49 a.m. on December 17, 2020?

14 A. Quote, "incoming."

15 Q. And were those the only calls that you found on this day?

16 A. Yes.

17 Q. So between the date of the meeting with Phil Sellinger and
18 these two calls that are listed here, did you find any other
19 calls between Menendez and Sellinger in the Sellinger cell
20 phone records you reviewed?

21 A. No.

22 MR. MONTELEONI: All right. You can take down
23 Government Exhibit 1351, Mr. Hamill. Thank you.

24 Q. So, directing your attention, Special Agent Van Wie, to
25 line 36, what is the date and time of that line?

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Van Wie - Direct

1 A. December 17, 2020, at 3:58 p.m.

2 Q. About how long is that after the call from Menendez to
3 Sellinger that we just looked at?

4 A. Approximately five hours.

5 Q. About how long is that after Sellinger's voice mail to
6 Menendez earlier that morning?

7 A. Approximately seven hours or so.

8 Q. And now, who does Menendez send a Signal message to at 3:58
9 p.m. that day, according to these documents?

10 A. Michael Soliman.

11 MR. MONTELEONI: Let's look briefly at these messages.

12 Mr. Hamill, could you please put up Government Exhibit
13 A113-PH4.

14 Q. Special Agent Van Wie, directing your attention under the
15 December 17, 2020, heading in the bottom third of the page,
16 could you please read just the first blue message that the
17 screen image reflects that Menendez wrote to Soliman?

18 A. "Please do a little checking on Salas time as superior
19 court judge and prosecutor. Thanks."

20 Q. Is this the same message that you just testified was sent
21 several hours after the call between Menendez and Sellinger we
22 just looked at?

23 A. Yes.

24 MR. WEITZMAN: Your Honor, I object. We've already
25 gone through these documents with a witness. I'm not

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Van Wie - Direct

1 understanding why we're doing it again.

2 MR. MONTELEONI: Placing these in time, and I was
3 about to move off of this document.

4 THE COURT: Mr. Weitzman is correct here. Let's try
5 to be efficient. Move forward.

6 MR. MONTELEONI: All right. Let's go back to the
7 timeline.

8 Mr. Hamill, can you please put back up Government
9 Exhibit 1304 and take us to page 3.

10 Q. Special Agent Van Wie, directing your attention to line 41,
11 what is the date?

12 A. December 18, 2020.

13 Q. And can you please read just the detail cell?

14 A. "Sellinger meeting with" quote "'CB.'"

15 Q. Directing your attention to line 42, what is the date and
16 time?

17 A. December 18, 2020, at 12:16 p.m.

18 Q. How does that compare to the scheduled start time of the CB
19 meeting on Sellinger's calendar on the previous line?

20 A. It was about 45 minutes later.

21 MR. MONTELEONI: I'd like to play the voice mail.

22 Mr. Hamill, if you could please put up Government
23 Exhibit A119-B-TR and play Government Exhibit A119-B, when
24 you're ready.

25 (Media played)

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Van Wie - Direct

1 MR. MONTELEONI: Let's go back to the chart. If you
2 could put back up page 3 of Government Exhibit 1304,
3 Mr. Hamill.

4 Q. Special Agent Van Wie, directing your attention to line 46,
5 can you please read the date?

6 A. "December 21, 2020."

7 Q. And about how long is that after the voice mail that we
8 just listened to?

9 A. It's about three days.

10 MR. MONTELEONI: Let's look at the message itself.

11 Mr. Hamill, can you please put up Government Exhibit
12 A118-1 and take us to page 3 and expand the top two texts.

13 MR. WEITZMAN: Again, objection, your Honor. I think
14 we've already reviewed this document with another witness.

15 MR. MONTELEONI: We have not looked at this document.

16 THE COURT: Just a moment.

17 I personally don't remember one way or the other.

18 Proceed.

19 MR. MONTELEONI: Thank you.

20 Q. Special Agent Van Wie, directing your attention to the top
21 text, can you please read what Sellinger writes to Menendez on
22 December 21, 2020?

23 A. "Good morning, Bob. Is there a convenient time for you to
24 catch up re my meeting with Cory? Thanks, Philip."

25 Q. Directing your attention to the next message in the chain,

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Van Wie - Direct

1 what day does Menendez respond in this text message?

2 A. December 28, 2020.

3 Q. About how long is that after Sellinger's previous text?

4 A. It's about one week.

5 Q. About how long is that after Sellinger's December 18 voice
6 mail saying, I have my call with Cory that we just listened to?

7 A. About ten days.

8 Q. Can you please read Menendez's response on December 28?

9 A. "Good morning. Just called. Let me know times when you
10 might be available today. Thanks."

11 MR. MONTELEONI: Let's return to the timeline.

12 Mr. Hamill, can you please put back up Government
13 Exhibit 1304, page 3.

14 Q. Special Agent Van Wie, directing your attention to line 50,
15 can you please read the date?

16 A. "January 5, 2021."

17 Q. Could you please read the detail cell?

18 A. "U.S. Attorney for District of New Jersey Craig Carpenito
19 resigns. Rachael Honig becomes acting U.S. Attorney."

20 Q. Directing your attention to the next line, where it
21 reflects that Soliman writes, Wildstein has been told by
22 sources that it's Suarez, what is the date of that message on
23 that line?

24 A. January 8, 2021.

25 MR. MONTELEONI: Now, let's go back to one of the

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1 source documents that we looked at previously.

2 Mr. Hamill, could you please put back up Government
3 Exhibit 1401, page 1. And if you could expand just paragraph 1
4 and put up page 3 on the other side so I can read paragraphs 1
5 and 1g:

6 "If called to testify as a witness, a lawyer who
7 represented Fred Daibes in another matter ('Daibes's counsel')
8 would testify as follows.

9 "g. A list of potential candidates for the position
10 of United States Attorney for the District of New Jersey began
11 to circulate in legal industry press in or about January 2021.
12 The list included, among others, Esther Suarez, the Hudson
13 County prosecutor, and Philip R. Sellinger, a lawyer in private
14 practice. Daibes expressed to Daibes's counsel that he thought
15 Suarez, whom he said he knew, might be preferable and more
16 amenable to a favorable resolution of his pending criminal
17 case. Daibes informed his counsel that he preferred Suarez to
18 Sellinger because he knew her and thought she would respond
19 more favorably to his arguments. Daibes's counsel did not
20 express to Menendez or anyone on his staff whether Daibes
21 preferred one candidate or another for the U.S. Attorney
22 position."

23 Let's return to the timeline.

24 Mr. Hamill, could you please put back up Government
25 Exhibit 1304 and take us to page 3.

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1 Q. Special Agent Van Wie, directing your attention to line 54,
2 where it says, Fred also had a good idea on how to handle Phil,
3 could you please read just the date?

4 A. "January 26, 2021."

5 Q. Directing your attention to line 55, can you please read
6 what Sellinger writes to Menendez on January 28, 2021?

7 A. "Bob, are you available for a call tomorrow afternoon?

8 Thanks. Philip."

9 MR. MONTELEONI: Mr. Hamill, can you please take us to
10 page 4 of Government Exhibit 1304.

11 Q. Directing your attention to line 59, can you please read
12 what Menendez texts to Sellinger on January 29, 2021, at 12:53
13 p.m.?

14 A. "Called you. Let me know when you're free."

15 Q. Now, about how long is that after the Signal message we
16 just looked at on January 26, where Soliman wrote, Fred also
17 had a good idea on how to handle Phil?

18 A. About three days later.

19 Q. Skipping down to line 64, can you please read the
20 description of what Menendez sends to President Biden on March
21 23, 2021?

22 A. "A letter of recommendation for Sellinger as ambassador.
23 Country not specified."

24 Q. Directing your attention to line 65, can you please read
25 what Menendez texts Fred Turner on April 20, 2021?

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Van Wie - Direct

1 A. "Hi. Hope all is well. Do you recall what country is Phil
2 Sellinger was looking at?"

3 Q. Directing your attention to the next line, can you please
4 read Turner's response?

5 A. "Give me a few minutes and I'll find his email to me, but
6 he was open to several, not just one."

7 Q. Directing your attention to line 67, can you please read
8 just the first four lines of the text from Fred Turner to
9 Menendez?

10 A. "Fred, below is my initial list. I look forward to
11 chatting shortly. Best, Philip."

12 Q. I'm not going to ask you to read them all, but are there a
13 list of countries after that, some with asterisks?

14 A. Yes.

15 Q. Please read the last line starting, asterisk indicates.

16 A. "Indicates countries I have visited."

17 Q. Directing your attention to line 68, can you please read
18 just the description of the voice message that this line
19 reflects Sellinger leaves for Menendez at 2 p.m. on April 20,
20 2021?

21 A. "Hey, Bob. Philip Sellinger. Hope all is well. If you
22 could give me a call at your convenience, I'd appreciate it.
23 My cell you've got, and I'm free all afternoon today. Whatever
24 time works for you. Thanks. Bye-bye."

25 Q. Directing your attention to the next line, can you please

06kWmen1

Van Wie - Direct

1 read the text that Sellinger sends to Menendez at 2:01 p.m. on
2 April 20, 2021?

3 A. "Hi, Bob. Hope all is well. Do you have a few minutes to
4 speak sometime today? Thanks. Philip."

5 MR. MONTELEONI: Mr. Hamill, could you please take us
6 to page 5 of Government Exhibit 1304.

7 Q. So, directing your attention to line 75, to Menendez's
8 message to Soliman, saying, also beginning to do a plan B just
9 in case, when did Menendez send that message?

10 A. April 20, 2021, at 4:57 p.m.

11 Q. When was that in comparison to Sellinger's 2:01 p.m. text
12 to Menendez saying, do you have a few minutes to speak sometime
13 today?

14 A. That was about three hours later.

15 Q. Directing your attention to line 77, can you please read
16 what Soliman writes to Menendez on April 29, 2021?

17 A. "If Philip looks for guidance, can I guide him?"

18 Q. On the next line, can you please read what's listed as
19 Menendez's reply?

20 A. "Yes."

21 Q. What day were these Signal messages sent?

22 A. April 29, 2021.

23 Q. How does that compare with the date of Menendez's message
24 to Soliman, saying, also beginning to do a plan B, just in
25 case, on line 75?

06kWmen1

Van Wie - Direct

1 A. It was about nine days later.

2 Q. Directing your attention to line 80, reflecting that
3 Soliman sends Menendez a Signal message saying, also I think if
4 you call Sellinger, you'll be comfortable with what he says,
5 what's the date and time of that message?

6 A. May 2, 2021, at 10:17 p.m.

7 Q. And directing your attention to line 81, what's listed as
8 Menendez's response?

9 A. "OK. We'll talk."

10 Q. Directing your attention to line 83, can you please read
11 what Menendez texts to Sellinger on May 20, 2021, at 8:28 p.m.?

12 A. "Hi, Phil. Might you be available to play golf on Saturday
13 afternoon? I have to check my club availability if you are."

14 Q. And about when was that in relation to the May 2 Signal
15 message from Soliman to Menendez saying, also I think if you
16 call Sellinger, you'll be comfortable with what he says?

17 A. It was about 18 days later.

18 MR. MONTELEONI: Mr. Hamill, can you please put up to
19 one side Government Exhibit 10J-4.

20 Q. Special Agent Van Wie, directing your attention to the top,
21 what year is this calendar for?

22 A. 2021.

23 MR. MONTELEONI: Mr. Hamill, could you please expand
24 May.

25 Q. Special Agent Van Wie, what day of the week was May 22,

06kWmen1

Van Wie - Direct

1 2021?

2 A. It was a Saturday.

3 MR. MONTELEONI: You can take the calendar down,
4 Mr. Hamill. Thank you.5 Q. Special Agent Van Wie, I'm not going to ask you to read the
6 next few texts, but directing your attention to line 87, on May
7 23, 2021, can you please read what Sellinger writes to
8 Menendez?9 A. "Bob, yesterday was fun. My 60 degree wedge is missing
10 from my bag. John may have inadvertently placed it in yours.
11 Would you ask your pro shop to check your bag? If it is there,
12 I can make arrangements to pick it up. Thanks. Philip."13 Q. When Sellinger writes, yesterday was fun, when was that in
14 relation to Saturday, May 22, 2021?

15 A. A day later.

16 MR. MONTELEONI: Mr. Hamill, can you please put back
17 up Government Exhibit 1401, page 1, and expand paragraph 1 on
18 one side, and then if you could put on the other side the
19 bottom of page 3 and the top of page 4 also of the same
20 document. And if you could expand paragraph 1i.

21 So, I'll now read paragraphs 1 and 1i:

22 "If called to testify as a witness, a lawyer
23 representing Fred Daibes in another matter ('Daibes's counsel')
24 would testify as follows:

25 "i. Daibes's counsel and Daibes discussed Sellinger

06kWmen1

Van Wie - Direct

1 in approximately late spring or early summer of 2021 after
2 Suarez's candidacy did not appear likely to be successful.
3 Daibes told Daibes's counsel that he had seen Sellinger at
4 Menendez's wedding, though he had not spoken to him and he had
5 no personal relationship with Sellinger. Daibes's counsel told
6 Daibes that he had known Sellinger a long time and that
7 Daibes's counsel would reach out to Sellinger about Daibes's
8 case if Sellinger was appointed to be the United States
9 Attorney for the District of New Jersey."

10 Let's return to the chart.

11 Mr. Hamill, could you please put up Government Exhibit
12 1304, page 7.

13 Q. Directing your attention to line 110, can you please read
14 what a Jason Tuber texts Menendez at 3:21 p.m. on June 30,
15 2021?

16 A. "No red flags from WH counsel's office for Phil's
17 interview. DOJ will circle back with the WH in the next few
18 days and, barring anything unexpected, begin the full FBI
19 background check."

20 Q. Directing your attention to line 111, can you please read
21 what Menendez writes to Sellinger at 3:35 p.m. that day?

22 A. "Hi. I hear you had a good interview today."

23 Q. Directing your attention to line 112, can you please read
24 Sellinger's response at 4:24 p.m.?

25 A. "Hi. Thanks for the email. I thought it went well, but

06kWmen1

Van Wie - Direct

1 I'm glad to hear there was positive feedback. Alice was very
2 helpful in my preparation."

3 Q. Directing your attention to line 113, without reading it
4 all out again, what does Menendez send to Sellinger at 4:45
5 p.m. that day?

6 A. Appears to be a screenshot of the text message he received
7 from Jason Tuber.

8 MR. MONTELEONI: Mr. Hamill, could you please take us
9 a few months ahead to page 13 of Government Exhibit 1304.

10 Q. Now, directing your attention to lines 176 and 177, whose
11 search history do they reflect?

12 A. Robert Menendez.

13 Q. What day were those searches run?

14 A. October 18, 2021.

15 Q. And about when are those searches, which are for how much
16 is one kilo of gold and how much is one kilo of gold worth, in
17 comparison to the text messages depicted right below, where
18 Nadine Menendez says she ran downstairs to get a doughnut and
19 Daibes said, he made me take the box with me, in lines 178 and
20 179?

21 A. Around 20 or so minutes.

22 Q. Which is 20 or so minutes before the other?

23 A. The search history was about 20 or so minutes before the
24 text messages.

25 Q. And now could you please note the time of that first search

06kWmen1

Van Wie - Direct

1 that's listed on line 176?

2 A. 11:12 a.m.

3 MR. MONTELEONI: Mr. Hamill, could you please put up
4 Government Exhibit A132.

5 Q. Directing your attention to the top line, Special Agent Van
6 Wie, can you please read the display name of the user that this
7 text here is from, the "from" in the party column, on the
8 "from" line on the top search --

9 A. Bob Menendez.

10 Q. -- top text?

11 A. Sorry.

12 Bob Menendez.

13 Q. Do you recognize that phone number that it is from as one
14 of the numbers associated with Robert Menendez in the
15 attribution chart, Government Exhibit 1305?

16 A. Yes.

17 Q. And could you please read the time of the message?

18 A. "11:11 a.m."

19 Q. How does that time compare to the time of the search for,
20 how much is one kilo of gold, on line 176, which you just
21 testified was 11:12 a.m.?

22 A. One minute earlier.

23 MR. MONTELEONI: Let's look at what's attached to this
24 text message at 11:11 a.m.

25 Mr. Hamill, could you please put up Government Exhibit

06kWmen1

Van Wie - Direct

1 A132-A.

2 Q. Special Agent Van Wie, did you verify that this letter was
3 attached to the message that we just looked at?

4 A. Yes.

5 Q. And directing your attention to the top letterhead, whose
6 letterhead is this on?

7 A. Robert Menendez.

8 Q. I'm not going to ask you to read all of this, but does the
9 first sentence reflect that this is a letter of recommendation?

10 A. Yes.

11 Q. Directing your attention to the bottom, who signed this
12 letter of recommendation?

13 A. Appears to be Robert Menendez.

14 MR. MONTELEONI: All right. Now, Mr. Hamill, could
15 you please show the witness a document that's been marked for
16 identification as Government Exhibit 1337.

17 Q. Special Agent Van Wie, is this another document that you
18 verified?

19 A. It is.

20 Q. Who prepared the first draft of this document?

21 A. The U.S. Attorney's Office.

22 Q. Did you collect some additional content to be added to this
23 document in the process of verifying it?

24 A. Yes.

25 Q. Did you actually input the additional content yourself?

06kWmen1

Van Wie - Direct

1 A. No.

2 Q. Did you verify that all of the information in the final
3 draft of this document is contained in the exhibits that are
4 cited in this document?

5 A. Yes.

6 MR. MONTELEONI: The government offers Government
7 Exhibit 1337.

8 THE COURT: Admitted.

9 (Government Exhibit 1337 received in evidence)

10 MR. MONTELEONI: Mr. Hamill, could you please publish.

11 Q. Special Agent Van Wie, what is this?

12 A. This is a collection of search history taken from both the
13 Bob Menendez cell phone in Government Exhibit A125 as well as
14 the Gmail account in A301.

15 Q. So where it talks about A301, have you seen that document,
16 A301?

17 A. I have.

18 Q. Can you describe, what kind of document is that?

19 A. It's a large document containing search history, dating
20 back many years.

21 Q. We're not going to offer this document into evidence, but
22 have you reviewed it in preparation for testifying?

23 A. I have.

24 Q. About how far did it go back?

25 A. Approximately 2008.

06kWmen1

Van Wie - Direct

1 Q. Now, have you looked through all of Government Exhibit
2 A301, the document marked for identification, Government
3 Exhibit A301, this long search history, for any searches for
4 gold?

5 A. I have.

6 Q. And did you find anything in that file that appeared to you
7 to be a search for the price of gold that does not appear in
8 what's now this final version of Government Exhibit 1337?

9 A. No.

10 Q. Now, what order are the searches in Government Exhibit 1337
11 in?

12 A. It's in reverse chronological order.

13 MR. MONTELEONI: Mr. Hamill, could you please take us
14 to page 18.

15 Q. Special Agent Van Wie, is this the last page of the
16 document?

17 A. It is.

18 Q. What generally are these earliest searches listed in
19 Government Exhibit 1337 concerning?

20 A. Various items of jewelry.

21 Q. What's the date of these first searches?

22 A. April 8, 2018.

23 MR. MONTELEONI: Mr. Hamill, could you please take us
24 to page 11 of Government Exhibit 1337.

25 Q. Directing your attention to April 5 of 2019, at 6:55:48

06kWmen1

Van Wie - Direct

1 p.m. UTC, what are the search terms that appear there?

2 A. What is the spot price of gold?

3 Q. So when you were reviewing Government Exhibit A301, that
4 whole search history file you described, did you find any other
5 searches for the price of gold itself rather than things made
6 out of gold that were earlier than this April 5, 2019, search?

7 A. No.

8 MR. MONTELEONI: Mr. Hamill, could you please just
9 scroll us up until we get to May 23, 2021, at 7:20:21 p.m. UTC.
10 We're still in 2019.

11 That's great, Mr. Hamill. Thank you.

12 Special Agent -- actually, can you scroll us up a
13 little bit farther, Mr. Hamill.

14 All right. That's good.

15 Q. Special Agent Van Wie, directing your attention to this
16 7:20:21 p.m. UTC search on May 23, 2021, can you please read
17 those search terms at that time?

18 A. "How much is 100G of gold worth?"

19 Q. Now, did you find in your review of all that search history
20 file, Government Exhibit A301, any other searches for the price
21 of a specific quantity of gold that were earlier than this May
22 23, 2021, search?

23 A. No.

24 Q. Can you please read the search terms of the next three
25 searches in order?

06kWmen1

Van Wie - Direct

1 A. "One gram of gold in dollars.

2 "100 grams of gold price.

3 "One ounce of gold."

4 MR. MONTELEONI: If we could scroll up through the
5 next few searches on May 23, 2021, and stop when we get to
6 9:48:08 p.m. UTC, Mr. Hamill.

7 OK. That's perfect. Thank you.

8 Q. Special Agent Van Wie, I'm not going to ask you to read
9 through all those search terms we just scrolled through, but do
10 they generally concern gold coins?

11 A. Yes.

12 Q. Directing your attention to the next four sets of search
13 terms, starting at 9:48:08 p.m. UTC on May 23, 2021, could you
14 please read those four sets of search terms in order?

15 A. "One ounce of gold.

16 "One ounce of gold in grams.

17 "One gram of gold in dollars.

18 "One gram of gold in dollars."

19 MR. MONTELEONI: Mr. Hamill, could you please scroll
20 us up through the next few searches.

21 Stop there. That's perfect, Mr. Hamill.

22 Q. So, directing your attention to the 9:59:51 p.m. UTC
23 search, is that another gold coin search?

24 A. It is.

25 Q. And directing your attention to May 29, 2021, Special Agent

06kWmen1

Van Wie - Direct

1 Van Wie, can you please read the search terms there?

2 A. "How much is an ounce of gold?"

3 MR. MONTELEONI: Mr. Hamill, could you please take us
4 to page 3 of Government Exhibit 1337.

5 Q. Directing your attention near the top of the page, on
6 October 18, 2021, are these the searches that we were just
7 looking at on the timeline a minute after that letter of
8 recommendation?

9 A. Yes.

10 Q. And about how close in time are they to those texts we
11 talked about between Nadine Menendez and Daibes about
12 doughnuts?

13 THE WITNESS: Go back to the chart for a minute?

14 MR. MONTELEONI: Yes. If you could bring up the chart
15 to one side, Mr. Hamill, and take us to page 13.

16 A. They were about 20 to 25 minutes before those text
17 messages.

18 MR. MONTELEONI: All right. Thank you.

19 You can take down Government Exhibit 1304, Mr. Hamill.
20 Thank you.

21 Q. This document reflects that these search terms reference a
22 kilo of gold. Did you see any searches in Menendez's Google
23 search history prior to October 18, 2021, referencing a kilo of
24 gold?

25 A. No.

06kWmen1

Van Wie - Direct

1 Q. Is a kilo bigger or smaller than an ounce?

2 A. Bigger.

3 Q. Is a kilo bigger or smaller than a hundred grams?

4 A. Bigger.

5 Q. Did you see any searches in Menendez's Google search
6 history prior to October 18, 2021, referencing quantities of
7 gold greater than a kilo?

8 A. No.

9 MR. MONTELEONI: Let's return to the timeline.

10 Mr. Hamill, please put back up Government Exhibit
11 1304, page 13.

12 Q. All right. Special Agent Van Wie, directing your attention
13 to line 181, can you please read the date?

14 A. It's October 25, 2021.

15 Q. Who is this message to?

16 A. It's to Robert Menendez.

17 MR. MONTELEONI: Let's look at this message to Robert
18 Menendez.

19 Mr. Hamill, can you please put up Government Exhibit
20 A111-PH1, page 1.

21 Q. Special Agent Van Wie, directing your attention to the top,
22 above the chat, can you please read the name that's written
23 there next to the circle with the letters FD?

24 A. "Fred Daibes."

25 Q. Directing your attention to the date above the picture in

06kWmen1

Van Wie - Direct

1 the middle of the page, can you please read that date?

2 A. "October 25, 2021."

3 MR. MONTELEONI: Mr. Hamill, can you please take us to
4 page 3 of Government Exhibit A111-PH1.

5 Q. Directing your attention, Special Agent Van Wie, to the
6 image on the screen, does it appear to be a photograph of
7 computer monitor?

8 A. Yes.

9 Q. In the photo, can you please read the large all-caps words
10 near the top next to the crown emblem?

11 A. Border Gold.

12 Q. And directing your attention --

13 MR. MONTELEONI: Mr. Hamill, can you actually expand
14 the portion that seems to be a photograph of a computer
15 monitor. Thank you.

16 Q. Directing your attention to the image to the right on the
17 web page, under the image of the gold bar, can you please read
18 the line of gray text?

19 A. "One kilo gold bar."

20 Q. Directing your attention one line down, after the words "as
21 low as," can you please read the dollar figure after as low as?

22 A. "\$59,431.20."

23 MR. MONTELEONI: Let's return to the chart.

24 Mr. Hamill, can you please take us back to page 13 of
25 Government Exhibit 1304.

06kWmen1

Van Wie - Direct

1 Q. Directing your attention to line 181 on October 25, 2021,
2 what is that message we just looked at in relation to
3 Menendez's search for, how much is one kilo of gold worth?

4 A. It was about one week later.

5 Q. When is that in relation to Nadine Menendez's text to Fred
6 Daibes saying, I ran downstairs to get a glazed doughnut; my
7 perfect husband said he did not keep the box of doughnuts?

8 A. It was also one week later.

9 MR. MONTELEONI: Mr. Hamill, can you please scroll us
10 down to the top of page 14 and the bottom of 13.

11 Q. Special Agent Van Wie, directing your attention to line
12 182, on October 25, 2021, at 12:38 p.m., who texts Fred Daibes?

13 A. Nadine Menendez.

14 Q. Could you please read what Nadine Menendez texts Daibes
15 then?

16 A. "Master Fred, this very, very sick friend was so looking
17 forward to a glazed doughnut today.

18 "Sorry we missed dinner last night. I couldn't lift my
19 head off the pillow.

20 "I told my perfect husband to meet you for dinner, but he
21 said he wanted to take care of me.

22 "Have a great week."

23 Q. How long is it that Nadine Menendez texted saying, this
24 very, very sick friend was so looking forward to a glazed
25 doughnut today, after Daibes sent Menendez a picture of a kilo

06kWmen1

Van Wie - Direct

gold bar using Signal?

A. About 20 minutes later.

Q. Directing your attention to lines 183 and 184, can you please read what Daibes writes to Nadine in those two 12:53 p.m. texts, in order?

A. "He's a good man your husband. Hope to see you soon.

"Next time I will bring you a doughnut."

Q. Directing your attention to line 185, can you please read Nadine's response at 12:56 p.m.?

A. "Choukran, yes, I'm very lucky. You are two of a kind in this universe."

MR. MONTELEONI: Mr. Hamill, could you please take us a few months ahead to page 15 of Government Exhibit 1304.

Q. Special Agent Van Wie, directing your attention to the top of the page, line 192, could you please read the date of that entry?

A. "November 26, 2021."

Q. Could you please read the detail cell for that line?

A. "Daibes rejects plea offer from U.S. Attorney's Office for the District of New Jersey in United States v. Daibes. Begins more focused preparations for trial in advance of jury selection scheduled for on or about January 11, 2022."

Q. Directing your attention to line 197, could you please read the date?

A. "December 10, 2021."

06kWmen1

Van Wie - Direct

1 Q. Could you please read the detail cell?

2 A. "U.S. Attorney's Office for the District of New Jersey
3 offers Daibes another plea deal, which Daibes rejects, in or
4 about mid-December."

5 Q. Directing your attention to line 198, whose search history
6 does this reflect?

7 A. Robert Menendez.

8 Q. Could you please read the search terms Menendez uses on
9 December 13, 2021?

10 A. "Gold price today."

11 MR. MONTELEONI: Mr. Hamill, could you please put up
12 Government Exhibit 10C-3.

13 Q. So, Special Agent Van Wie, directing your attention under
14 the browser bar and under the top banner of the web page to the
15 small top text starting December, on the left, can you please
16 read that line?

17 A. "Menendez, Booker" -- oh, I'm sorry. The date?

18 Q. Sure. Read the date first.

19 A. "December 7, 2021."

20 Q. And yes, could you please read now that large bolded
21 heading right below the December 7, 2021 date?

22 A. "Menendez, Booker applaud confirmation of Philip R.
23 Sellinger as U.S. Attorney for the District of New Jersey."

24 MR. MONTELEONI: Mr. Hamill, could you please take us
25 back to Government Exhibit 1304 and put up page 15.

06kWmen1

Van Wie - Direct

1 Q. Directing your attention to line 199, could you please read
2 the date?

3 A. "December 16, 2021."

4 Q. Could you please read the detail cell?

5 A. "Philip Sellinger sworn in as U.S. Attorney for the
6 District of New Jersey."

7 Q. Directing your attention to line 202, can you please read
8 what Menendez sends to Soliman via Signal?

9 A. "Did the person Phil named get disclosed?"

10 Q. Directing your attention to line 203, can you please read
11 Soliman's response?

12 A. "Nothing yet. I've been searching online and haven't seen
13 any announcements."

14 Q. Directing your attention to lines 204 through 209, whose
15 search history and web activity history is reflected there?

16 A. Robert Menendez.

17 Q. What is the date of the searches and web activity on these
18 lines?

19 A. December 18, 2021.

20 Q. On line 204, can you please read the search terms that
21 appear in Menendez's search history?

22 A. "Philip Sellinger, U.S. Attorney."

23 Q. Directing your attention to lines 205 to 207, I'm not going
24 to ask you to read those URLs all out, but does each of them
25 reflect that Menendez visited a web page with USAO NJ and

06kWmen1

Van Wie - Direct

either divisions or administrative division in the URL?

A. Yes.

Q. Directing your attention to line 208, can you please read the search terms Menendez used at 8:34 p.m. that day?

A. "Border Gold."

Q. Directing your attention to line 209, can you please read the search terms Menendez used at 8:35 p.m. that day?

A. "Border Gold. One kilo gold bar."

Q. About how long was Menendez's search for Border Gold, one kilo gold bar after Menendez's search for Philip Sellinger, U.S. Attorney?

A. A little over five hours.

Q. Directing your attention to line 210, what is the date?

A. December 22, 2021.

Q. About how long is that after Menendez's search for Border Gold one kilo gold bar?

A. About four days.

Q. Can you please read the description of what an Erica Jackson emails to Philip Sellinger and others?

A. "Formal notice that Philip Sellinger is recused from United States v. Daibes, 18-cr-655 (SDW)."

Q. And directing your attention -- comparing that to line 199, about how long is that after Sellinger's December 16, 2021, swearing in?

A. That was about six days.

06kWmen1

Van Wie - Direct

1 Q. Directing your attention now to line 211, can you please
2 read the date and time that's reflected here on line 211?

3 A. "December 23, 2021, at 1:53 p.m."

4 Q. Could you please read the detail cell?

5 A. "Daibes trial scheduled for 1/11/22 adjourned."

6 Q. Directing your attention to line 212, can you please read
7 what Fred Daibes texts Nadine Menendez at 9:09 p.m. that
8 evening?

9 A. "That's great. You both need a good relaxing night.
10 Enjoy. How is he feeling?"

11 Q. Directing your attention to line 213, can you please read
12 Nadine Menendez's response?

13 A. "Better having heard the date is postponed. He is fixated
14 on it."

15 Q. So where Nadine Menendez writes, better having heard the
16 date is postponed, he is fixated on it, about how long was that
17 text message sent after the trial date in Daibes's criminal
18 case was adjourned?

19 A. It was later that evening.

20 MR. MONTELEONI: Mr. Hamill, could you please scroll
21 us down so that we're at the bottom of page 15, top of page 16.

22 That's good. Thank you.

23 Q. Special Agent Van Wie, directing your attention to line
24 214, can you please read Daibes's reply to Nadine Menendez at
25 9:15 p.m.?

06kWmen1

Van Wie - Direct

1 A. "Good. I don't want him to be upset over it. This is not
2 his fault. He was amazing in all he did. He's an amazing
3 friend and as loyal as they come. How is the shoulder? Is he
4 sleeping? Let me know if I can get him a recliner. It helped
5 me sleep."

6 Q. Where Daibes wrote, this is not his fault, he was amazing
7 in all he did, does Daibes explain what he did?

8 A. No.

9 Q. Where Daibes writes, let me know if I can get him a
10 recliner, is that in the same text message where Daibes writes,
11 he was amazing in all he did?

12 A. Yes.

13 Q. Directing your attention to line 215, what date was that
14 text sent?

15 A. December 25, 2021.

16 Q. Can you please read what Daibes writes to Nadine Menendez
17 on December 25, 2021?

18 A. "Thank you, my sister. I'm fine. Talk to SueSue and get
19 Bob the chair, especially for when he comes home from hospital.
20 Merry Christmas."

21 Q. Directing your attention to line 216, can you please read
22 what Nadine Menendez writes to someone named SueSue Pellegrino?

23 A. "The recliner's arrived. I will get some sleep tonight,
24 and thank you very, very much again in the morning. It moves
25 the seat all the way up so it's easy for him to get up without

06kWmen1

Van Wie - Direct

1 putting pressure on the right arm. Thank you. And if you need
2 anything dropped off so you don't have to leave the house, let
3 me know. I will gladly do it."

4 Q. Directing your attention to line 218, can you please read
5 what Nadine Menendez texts to Daibes on January 2 of 2022, the
6 quoted portioned?

7 A. "Thank you, Fred. He finally fell asleep at 6:30 a.m. to
8 noon. We went for a very slow walk around the block, and he
9 came back and just sat in the recliner. Thank you so much for
10 everything. I text SueSue during the week that the reclining
11 chair has been a lifesaver. I don't know what he would have
12 done without it."

13 Q. Directing your attention to line 224, on January 21, 2022,
14 at 2:48 p.m., who does Menendez call?

15 A. Philip Sellinger.

16 Q. How long does that call last?

17 A. 34 seconds.

18 Q. Directing your attention to line 227, at 4:51 p.m. that
19 day, who calls Menendez?

20 A. Philip Sellinger.

21 Q. How long does that call last?

22 A. Four minutes and 35 seconds.

23 Q. Directing your attention to the next line, is that another
24 short call between Sellinger and Menendez a few minutes later?

25 A. Yes.

06kWmen1

Van Wie - Direct

1 Q. Directing your attention to lines 229 to 232, whose search
2 and web activity history is reflected on these lines?

3 A. Robert Menendez.

4 Q. Directing your attention to line 229, what's the date and
5 time on that search activity?

6 A. January 21, 2022, at 7:14 p.m.

7 Q. How does that compare with the time of Menendez's calls
8 with Sellinger that afternoon?

9 A. Approximately two hours later.

10 Q. Could you please read the search terms Menendez entered at
11 7:14 p.m., as reflected on the chart?

12 A. "Vikas Khanna, attorney."

13 Q. I'm not going to ask you to read the whole URLs on the next
14 two lines, but do the next two lines reflect that Menendez
15 visited LinkedIn.com pages with Vikas Khanna in the title?

16 A. Yes.

17 Q. And by the way, what is LinkedIn?

18 A. It's a professional profile website where people put their
19 work experience.

20 Q. Directing your attention to line 233, who does Nadine
21 Menendez call on January 23, 2022?

22 A. I'm sorry. Could you repeat the question?

23 Q. On line 233, who does Nadine Menendez call in this January
24 23, 2022, entry?

25 A. Fred Daibes.

06kWmen1

Van Wie - Direct

1 Q. How long does that call last?

2 A. One minute.

3 Q. Directing your attention to line 235, what's the date and
4 time of that call?

5 A. January 24, 2022, at 10:05 a.m.

6 Q. Who calls Nadine Menendez then?

7 A. John Pilot.

8 Q. About how long does that call last?

9 A. 34 seconds.

10 Q. Directing your attention to line 236, who does Nadine
11 Menendez call?

12 A. John Pilot.

13 Q. About how long does that call last?

14 A. 35 seconds.

15 MR. MONTELEONI: Mr. Richenthal, can you please put up
16 Government Exhibit 2A-16 on the board.

17 And while he's doing that, Mr. Hamill, could you
18 please scroll us down to the bottom of page 16, top of page 17.

19 That's great, Mr. Hamill. Thank you.

20 THE COURT: Why don't you find a logical breaking
21 point for me to give the jury its break.

22 MR. MONTELEONI: Yes, your Honor. A few more
23 questions and it will be a good point.

24 THE COURT: Go ahead.

25 BY MR. MONTELEONI:

06kWmen1

Van Wie - Direct

1 Q. Directing your attention to line 237, who does Nadine
2 Menendez text at 11:56 a.m.?

3 A. Fred Daibes.

4 Q. About how long is that after Nadine Menendez's call with
5 John Pilot?

6 A. About two hours.

7 Q. Could you please read what Nadine Menendez texts to Fred
8 Daibes about two hours after her calls with John Pilot?

9 A. "Thank you. Christmas in January."

10 Q. Directing your attention to line 238, who does Menendez
11 call at 1:49 p.m. on January 24, 2022?

12 A. Vikas Khanna.

13 Q. About how long is that call after Nadine Menendez texted
14 Fred Daibes, thank you, Christmas in January?

15 A. It was about two hours later.

16 Q. How long does Menendez's call to Khanna last?

17 A. 15 seconds.

18 Q. Directing your attention to line 241, whose search history
19 is reflected there?

20 A. Robert Menendez.

21 Q. Can you please read the search terms Robert Menendez used
22 on January 29, 2022, as reflected on the chart?

23 A. "Kilo of gold price."

24 Q. About how long is it that Menendez googles, kilo of gold
25 price, after Nadine Menendez texts Fred Daibes, thank you,

06kWmen1

Van Wie - Direct

1 Christmas in January?

2 A. About five days later.

3 Q. Directing your attention to line 242, who does Menendez
4 call on January 31, 2022, at 2:02 p.m.?

5 A. Vikas Khanna.

6 Q. How long is that call?

7 A. One minute and 24 seconds.

8 Q. Directing your attention to line 243, who does Menendez
9 call at 2:07 p.m.?

10 A. Fred Daibes.

11 Q. About how long is it that Menendez calls Fred Daibes after
12 calling Vikas Khanna?

13 A. About five minutes later.

14 Q. About how long is it that Menendez calls Fred Daibes after
15 performing a Google search for kilo of gold price?

16 A. About two days later.

17 MR. MONTELEONI: This is a good time for the morning
18 break.

19 THE COURT: All right.

20 Ladies and gentlemen, midmorning break, 15 minutes.

21 (Continued on next page)

06kWmen1

Van Wie - Direct

1 (Jury not present)

2 THE COURT: You may step down, sir, and out, if you
3 would.

4 (Witness not present)

5 THE COURT: You may be seated.

6 Mr. Monteleoni, I take it the documents, this chart
7 and the underlying documents have already been admitted. Is
8 that correct?

9 MR. MONTELEONI: Now they have, yes.

10 THE COURT: All right. You've got to be more
11 efficient in the presentation here. Look, it's your direct,
12 but it's important that everyone be efficient now. This is the
13 18th or 19th day of trial. There's a lot that you're getting
14 that seems to me -- again, you'll ultimately decide this -- is
15 unnecessary: 34 seconds for this call, a minute for that call.

16 Some calls you may want the time. Two hours after
17 that, this, that. Again, some of it you may want. I don't
18 want to be specific, but it's clear that you want to show that
19 there's a quick turnaround from this event to that call, but
20 not as many as you're doing. You're focusing on too many
21 leaves, not even the trees. The details of the recliner, the
22 fact that Sellinger puts asterisks by the countries he's
23 visited, the endless back-and-forth trying to set up meetings.

24 Technically, you don't even have to be asking all
25 these questions. What you want to be doing is using the

06kWmen1

Van Wie - Direct

1 exhibits you have in your summation.

2 Now, obviously you're not going to do that for
3 everything, so you can go through some of this, but golf bags,
4 the details of the five or six back-and-forths trying to
5 arrange a meeting, what's important to you is they had a
6 meeting and it was relatively soon after this event or that
7 event: Hi, Phil. Might you be available, the idea is you've
8 just got to focus on what's important here. Take the remainder
9 of this time to pare down things. I want you to be using
10 considerably less than the time you've projected for this
11 particular direct. I don't want to use 611. I want you to
12 pare down your presentation. Use the remaining time.

13 Thank you.

14 MR. MONTELEONI: Thank you, your Honor.

15 (Recess)

16

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06K5men2

Van Wie - Direct

1 THE COURT: Jury entering.

2 (Jury present)

3 THE COURT: You may be seated in the courtroom and
4 Mr. Monteleoni, you may continue with your direct examination
5 of Mr. van Wie.

6 MR. MONTELEONI: Thank you.

7 Mr. Hamill can you please put up Government Exhibit
8 1401, span paragraph 1, and then on the other side of the
9 screen take it to the bottom of page 5 and top of page 6.

10 So, I will now read from paragraph 1, 1q and 1r: If
11 called to testify as a witness, the lawyer who represented Fred
12 Daibes in another matter, Daibes' counsel would testify as
13 follows:

14 q. In our about January 2022, sometime after
15 Sellinger, as U.S. Attorney, had recused himself from the case,
16 Daibes called Daibes' counsel and used the speakerphone feature
17 of Daibes' cell phone to allow Menendez to participate in the
18 call. During that call, which lasted approximately five
19 minutes, Menendez admonished Daibes' counsel that Daibes'
20 counsel was not being aggressive enough and that Daibes'
21 counsel should push for dismissal of the Daibes D.N.J.
22 prosecution.

23 R. At some point prior to the January 2022 call, Daibes
24 told Daibes' counsel that Menendez thought Daibes' counsel was
25 being a wuss in his approach to the Daibes D.N.J. prosecution

06K5men2

Van Wie - Direct

1 and should have been pressing for a dismissal.

2 Now Mr. Hamill would you please scroll down to expand
3 paragraphs 1s and 1t?

4 S. On or about February 10, 2022, Daibes' counsel
5 made a presentation to First Assistant U.S. Attorney Vikas
6 Khanna regarding the Daibes D.N.J. prosecution, seeking a plea
7 to a misdemeanor offense with a sentence of probation.

8 Sellinger did not participate in the presentation, as he had
9 been recused from the case. Subsequent to this presentation,
10 the U.S. Attorney's office for the District of New Jersey
11 communicated to Daibes' counsel that it would enter into an
12 agreement pursuant to which Daibes would receive a sentence of
13 probation. Thereafter, and continuing for several months after
14 the presentation, Daibes' counsel and the U.S. Attorney's
15 office for the District of New Jersey restarted and engaged in
16 discussions about a potential resolution of the Daibes D.N.J.
17 prosecution.

18 Let's go back to the chart, Mr. Hamill. Can you
19 please put up Government Exhibit 1304, page 17?

20 BY MR. MARK:

21 Q. Directing your attention to line 246, Special Agent
22 van Wie, what is the date of this e-mail?

23 A. February 17, 2022.

24 Q. Can you please read what a Shannon Kopplin e-mails Menendez
25 as reflected in this entry?

06K5men2

Van Wie - Direct

1 A. "Thank you again for contacting the committee. Based on
2 our discussion, I advise you amend your CY 2020 financial
3 disclosure report to include your spouse's gold bars in part 3
4 as an asset."

5 Q. What are the initials of the phrase "calendar year"?

6 A. CY.

7 Q. So, when is this e-mail, saying thank you for contacting
8 the committee, in relation to Menendez' January 29, 2022 search
9 for a kilo of gold price?

10 A. Just under three weeks.

11 Q. When is this e-mail in relation to Menendez' October 18,
12 2021 search for how much is one kilo of gold worth?

13 A. Several months.

14 MR. MONTELEONI: Mr. Hamill, can we now go to page 18?

15 Q. Directing your attention to line 252, can you please read
16 the search terms appearing in Menendez' search history on
17 March 6, 2022?

18 A. "1 kilo of gold."

19 Q. Directing your attention to line 253, who is the sender of
20 the e-mail listed as being sent on March 8, 2022?

21 A. Daibes' counsel.

22 Q. Can you please read the detail cell regarding that e-mail?

23 A. "E-mail to the court in United States v. Daibes. 'On
24 behalf of Mr. Daibes, we are extremely close to a resolution,
25 and I am very, very optimistic that, with just a bit more time,

06K5men2

Van Wie - Direct

1 we can get the case resolved and be prepared for him to enter a
2 guilty plea.'"

3 Q. Directing your attention to line 256, what is the date?

4 A. March 21, 2022.

5 Q. Can you please read what Nadine Menendez texts Fred Daibes
6 at 5:49 p.m. on March 21, 2022?

7 A. "I just got off the phone with David. He is going to see
8 if he can schedule a viewing on Saturday around 11:00 a.m. I
9 am so excited."

10 Q. Directing your attention to line 259, can you please read
11 the text from a David Axelrad to Nadine Menendez on March 22,
12 2022, at 11:03 a.m.?

13 A. "Hi Nadine. It was nice speaking to you yesterday and
14 looking forward to meeting Saturday. I'm still coordinating
15 showings and will update you. Safe travels. David Axelrad."

16 MR. MONTELEONI: Can you please take us, Mr. Hamill to
17 page 19, Government Exhibit 1304?

18 Q. Directing your attention to line 261, can you please read
19 what David Axelrad writes to Nadine Menendez at 11:12 a.m. on
20 March 28, 2022?

21 A. "Hi Nadine. Have you seen 550 Summit?"

22 Q. Directing your attention to line 262, what website does
23 David Axelrad text Nadine Menendez a link from?

24 A. Zillow.com.

25 Q. What is Zillow.com?

06K5men2

Van Wie - Direct

1 A. It is a website that lists homes for sale as well as for
2 rent.

3 Q. Let's look.

4 MR. MONTELEONI: Mr. Hamill, can you please put up
5 Government Exhibit 10H-2 cited in this row?

6 Q. Special Agent van Wie, directing your attention under the
7 pictures, can you please read the street address?

8 A. 550 Summit Street.

9 Q. How does that number and street name compare to what David
10 Axelrad texted Nadine Menendez asking if she had seen it?

11 A. The same.

12 Q. And above the street address and under the photo, can you
13 please read the dollar figure listed there?

14 A. \$4,700,000.

15 MR. MONTELEONI: Mr. Hamill, can you please take us
16 back to page 19 of Government Exhibit 1304?

17 Q. Could you please read what David Axelrad texted Nadine
18 Menendez on line 263, March 28, 2022, at 5:50 p.m.?

19 A. "Confirmed appointments for Saturday. 550 Summit Street,
20 Englewood Cliffs, 11:00 a.m. on 4/2. 15 Schaeffer Road,
21 Alpine, 12:00 p.m. on 4/2."

22 MR. MONTELEONI: And Mr. Hamill, can you please take
23 us ahead, briefly, to page 21, Government Exhibit 1304?

24 Q. Directing your attention to line 294, can you please read
25 what David Axelrad writes to Nadine Menendez on April 1, 2022?

06K5men2

Van Wie - Direct

1 A. "Hi Nadine. See you tomorrow at 11:00 a.m., 550 Summit
2 Street, Englewood Cliffs."

3 Q. Directing your attention to line 297, can you please read
4 what Nadine Menendez writes to David Axelrad on April 5, 2022?

5 A. "Good morning, David. Sorry it took so long for me to say
6 thank you for everything you did this weekend and last. I hope
7 to have an answer for you when we get back in two weeks."

8 MR. MONTELEONI: Let's go back in time, Mr. Hamill, to
9 page 19.

10 Q. Special Agent van Wie, directing your attention to
11 line 264, can you please read what Nadine Menendez texts Fred
12 Daibes at 9:50 a.m. on March 30, 2022?

13 A. "Good morning, Fred. What time woks for you today and
14 where?"

15 Q. Directing your attention to line 265, can you please read
16 Fred Daibes' response to Nadine at 9:51 a.m.?

17 A. "12:00 River Palm."

18 Q. Directing your attention to line 269, can you please read
19 what Nadine writes to Fred Daibes at 1:48 p.m.?

20 A. "Thank you, Fred." Followed by emoticons.

21 Q. What typeface are the words "thank you" in?

22 A. All caps.

23 Q. How long did Nadine Menendez send "Thank you, Fred" and
24 those emojis, after the 12:00 p.m. time that appeared in Fred
25 Daibes' message that we just looked at?

06K5men2

Van Wie - Direct

1 A. About two hours.

2 Q. Directing your attention to line 270, can you please read
3 what Nadine texts Daibes at 11:53 a.m. the next day, March 31,
4 2022?

5 A. "Good morning, Fred. Vasken just called me. I'm going to
6 meet him at 2:00 p.m."

7 Q. You just read: Vasken just called me.

8 MR. MONTELEONI: Mr. Hamill, can you please put up
9 Government Exhibit 1430, page 4?

10 I will now read paragraph 28: The document marked for
11 identification as Government Exhibit 2A-29 is a true and
12 accurate photograph of Vasken Khorozian

13 Mr. Richenthal, can you please put Government Exhibit 2A-29
14 on the board?

15 Mr. Hamill, can you briefly publish Government Exhibit
16 2A-29? Mr. Hamill, can you take us back to page 19, Government
17 Exhibit 1304?

18 Q. Directing your attention back to line 271, can you please
19 read the message that Fred Daibes sends to Nadine Menendez
20 several minutes after she texts him that "Vasken just called me
21 message" that we just read?

22 A. "Great."

23 Q. Directing your attention to line 272, can you please read
24 Nadine Menendez' reply, which is also 11:56 a.m.?

25 A. "Thank you for everything."

06K5men2

Van Wie - Direct

1 MR. MONTELEONI: Now, Mr. Hamill, can you please take
2 us to page 20?

3 Q. Directing your attention to line 273, can you please read
4 what Nadine Menendez texts to Robert Menendez at 2:26 p.m.?

5 A. "I have a 2:00 p.m. meeting. Can you please call me when
6 you have a minute?"

7 Q. Directing your attention to line 277, who calls Nadine
8 Menendez at 1:15 p.m.?

9 A. Robert Menendez.

10 Q. And directing your attention to line 278 does Nadine
11 Menendez call Robert Menendez back?

12 A. Yes.

13 Q. Directing your attention to line 279, can you please read
14 the date and time?

15 A. March 31, 2022 at 2:04 p.m.

16 Q. Can you please read the first sentence of the detail cell?

17 A. "Creation time of picture of kilogram gold bars and a one
18 ounce Asahi gold bar. Picture found on second Nadine Menendez
19 cell phone."

20 Q. Let's look.

21 MR. MONTELEONI: Mr. Hamill can you please put up
22 Government Exhibit B201-1A and please rotate it 90 degrees
23 counter-clockwise? Thank you. Now, can you please put up to
24 the side another exhibit cited in the cell, Government Exhibit
25 3D-6?

06K5men2

Van Wie - Direct

1 Q. So Special Agent van Wie, can you please read the three
2 letters in the upper left corner of the first page of
3 Government Exhibit 3D-6 from the words "gold inventory"?

4 A. FAD.

5 MR. MONTELEONI: Now, Mr. Hamill, can you please take
6 us to page 2, and expand from the "kilo bars" heading to the
7 bottom of the page?

8 Q. Special Agent van Wie, can you please read the folded text
9 next to "brand" right under "kilo bars"?

10 A. Johnson Matthew, Canada.

11 MR. MONTELEONI: Mr. Hamill, can you please expand the
12 left most gold bar in the photo from the second Nadine Menendez
13 cell phone?

14 Q. Special Agent van Wie, can you please read the words at the
15 top center of the bar along the top faces of the diamond shape?

16 A. Johnson Matthew.

17 Q. Directing your attention lower on that bar, under the words
18 "1 kilo," can you please read the number starting with G?

19 A. G 114008.

20 Q. Directing your attention on Government Exhibit 3D-6, the
21 FAD gold inventory document under the Johnson Matthew heading,
22 directing your attention to the fourth to last serial number
23 there, how does that compare to the serial number on the gold
24 bar that you just read?

25 A. It is the same.

06K5men2

Van Wie - Direct

1 MR. MONTELEONI: Mr. Hamill, can you please scroll us
2 down to page 3 of Government Exhibit 3D-6?

3 Q. Can you please read the first brand heading on this page
4 still in the "kilo bars" section before getting to the 10oz bar
5 section?

6 A. Royal Canadian Mint.

7 MR. MONTELEONI: Mr. Hamill, can you expand now
8 looking at the middle gold bar in the picture from the second
9 Nadine Menendez cellphone. Can you please expand the top
10 circular emblem on that bar first?

11 Q. Special Agent van Wie, how do the words in the top half of
12 that circle compare to the brand name that you just read?

13 A. They are the same.

14 MR. MONTELEONI: And Mr. Hamill, if you could now just
15 zoom out to show the whole middle gold bar?

16 Q. Directing your attention below the words "1 kilo gold" and
17 999.9 on the bottom of this bar that is pictured here. Can you
18 please read the number that is printed there?

19 A. A 002006.

20 Q. How does that number you just read compare to the serial
21 number listed under the Royal Canadian Mint heading in the FAD
22 gold inventory?

23 A. They are the same.

24 Q. Let's go back to the timeline.

25 MR. MONTELEONI: Mr. Hamill, can you please take us to

06K5men2

Van Wie - Direct

1 page 21 of Government Exhibit 1304?

2 Q. Special Agent van Wie, directing your attention to line
3 301, what is the date?

4 A. April 14, 2022.

5 Q. Can you please read the detail cell?

6 A. "Daibes and the U.S. Attorney's office for the District of
7 New Jersey entered into an agreement to resolve United States
8 v. Daibes."

9 Q. Directing your attention back a few lines to line 298,
10 Special Agent van Wie, what is the date of that entry on 298?

11 A. April 8, 2022.

12 Q. On that line, who calls Robert Menendez at 3:28 p.m. on
13 April 8, 2022?

14 A. Philip Sellinger.

15 Q. How long does that call last?

16 A. One minute and 52 seconds.

17 Q. It starts at about 3:28 p.m. and lasts for one minute and
18 52 seconds; about when does it end?

19 A. Around 3:30.

20 Q. Directing your attention to line 299, who does Menendez
21 text at 3:32 p.m.?

22 A. Cory Booker.

23 Q. Can you please read what Robert Menendez texted Cory
24 Booker?

25 A. "Hey, I just want you to know that Philip Sellinger called

06K5men2

Van Wie - Direct

1 me to speak at his investiture ceremony. I turned him down.
2 When I see you, I will explain why. But he has been a
3 disappointment."

4 Q. About how long is it between when Menendez gets off the
5 phone with Sellinger and when Menendez texts that to Cory
6 Booker?

7 A. About two minutes.

8 Q. About how long is this call and this text message from the
9 press release titled: Menendez/Booker applaud confirmation of
10 Philip R. Sellinger as U.S. Attorney for the District of New
11 Jersey, which you just read was on December 7 of 2021?

12 A. About four months.

13 MR. MONTELEONI: Mr. Hamill, could you now take us
14 back a number of pages to page 4, Government Exhibit 1304?

15 Q. Special Agent van Wie, directing your attention to line 60,
16 could you please read the date?

17 A. January 31, 2021.

18 Q. So about when is this now in relation to those last entries
19 you have been looking at, from April 2022?

20 A. It is a year earlier or so.

21 Q. Let's look at the e-mail that is cited here.

22 MR. MONTELEONI: Mr. Hamill, can you please put up
23 Government Exhibit 3A-8?

24 Q. Special Agent van Wie, directing your attention first to
25 the bottom e-mail, can you please read the display name in the

06K5men2

Van Wie - Direct

1 "to" line?

2 A. Kelly, Robert (Menendez) .

3 Q. And can you please read the display name in the "from"
4 line?

5 A. "Mdoyle1031."

6 Q. Can you please read the subject line?

7 A. Meeting.

8 Q. Please read the first paragraph of the body after "Rob."

9 A. Attached are the bios for the two Qatari officials who look
10 forward to meeting with Senator Menendez.

11 Q. Directing your attention to the top e-mail, who does Kelly
12 forward this to?

13 A. Arkin, Sarah (foreign relations) and Lewis, Jessica,
14 (foreign relations).

15 Q. Can you please read the body text of Robert Kelly's e-mail?

16 A. "RM agreed to do this meeting on Tuesday at 11:00 a.m. I'm
17 trying to track down more info."

18 Q. What is the final name of the attachment in the forwarded
19 email to Sara Arkin and Jessica Lewis?

20 A. Bios for Qataris.

21 MR. MONTELEONI: Mr. Hamill, can you please take us to
22 page 2, and directing your attention under the bolded heading
23 reading: His Excellency Sheikh Sultan Bin Jassim Bin Mohammed
24 Al Thani. Can you please read the two paragraphs under that
25 heading?

06K5men2

Van Wie - Direct

1 MR. WEITZMAN: Your Honor, I think we are supposed to
2 get an instruction at this point.

3 THE COURT: Yes. Absolutely.

4 Ladies and gentlemen, this is being given to you not
5 for the truth of what is set forth but simply for the fact that
6 it was said. That's all. It is not for the truth of what is
7 there.

8 Thank you, sir.

9 BY MR. MONTELEONI:

10 Q. Special Agent van Wie, can you please read the two
11 paragraphs under that bolded heading?

12 A. His Excellency Sheikh Sultan Bin Jassim Bin Mohammed
13 Al Thani is the member of the Al Thani family, ruling family in
14 Qatar. He is the CEO and the chairman of the largest
15 construction and real estate company in Qatar, his company owns
16 many leisure holdings around the world including several Four
17 Seasons Hotels in the United States. Sheikh Sultan Al Thani
18 serves as the advisor to his highness Emir of Qatar on Qatar's
19 investments in the United States and other matters.

20 MR. MONTELEONI: If you can drop that expansion,
21 Mr. Hamill, and expand the paragraph under the second bolded
22 heading reading: His Excellency Ali Al Thawadi?

23 THE COURT: All of this information, ladies and
24 gentlemen, on this page, is not for the truth but simply for
25 the fact that it is set forth there.

06K5men2

Van Wie - Direct

1 Q. So, can you please just read the one paragraph right under
2 the, His Excellency Ali Al Thawadi, heading?

3 A. His excellency Ali Al Thawadi currently serves as chief of
4 staff to his excellently Sheikh Mohammed Bin Hamad Al Thani
5 brother and secretary to his highness the emir for investment
6 affairs.

7 Q. Directing your attention to the diagram here, can you
8 please read what is in the top box on this diagram?

9 A. Sheikh Tamin Bin Hamad Al Thani Emir of Qatar.

10 Q. What is the position of Emir of Qatar?

11 A. It is the leader of Qatar.

12 Q. Can you please read just the non-bolded text in that left
13 most box?

14 MR. WEITZMAN: Your Honor -- withdrawn.

15 THE COURT: All right.

16 A. Brother and secretary for investment affairs.

17 Q. Where is Ali Al Thawadi on this diagram?

18 A. In the bottom box.

19 Q. And where is Sheikh Sultan Bin Jassim Bin Mohammed Al Thani
20 on the diagram?

21 A. In the right-most box.

22 MR. MONTELEONI: Mr. Hamill, can you please put up
23 Government Exhibit 1430, page 4?

24 I will now read paragraph 27: The document marked for
25 identification as Government Exhibit 2A-28 is a true and

06K5men2

Van Wie - Direct

1 accurate photograph of Sultan Bin Jassim Al Thani.

2 Mr. Richenthal, can you please put Government Exhibit
3 2A-28 on the board?

4 Mr. Hamill can you please publish Government Exhibit
5 2A-28 briefly? Mr. Hamill, please put up Government Exhibit
6 1430, page 3?

7 I will now read paragraph 17: The document marked for
8 identification as Government Exhibit 2A-18 is a true and
9 accurate photograph of Ali Al Thawadi.

10 Mr. Richenthal, if you could please put up Government
11 Exhibit 2A-18 on the board?

12 Mr. Hamill, could you please publish Government
13 Exhibit 2A-18? Now Mr. Hamill can you please put up Government
14 Exhibit 1401 and put up paragraph 1 and also page 2 to the side
15 of it?

16 I will now read paragraph 1d: If called to testify as
17 a witness, a lawyer who represented Fred Daibes in another
18 matter, Daibes' counsel, would testify, as follows:

19 d. During the pendency of the Daibes D.N.J.
20 prosecution, at Daibes' request, in order to help Daibes obtain
21 credit from particular lenders who Daibes stated were concerned
22 about the Daibes' D.N.J. prosecution, Daibes' counsel spoke to
23 lenders on several occasions.

24 Now, Mr. Hamill, can you please put back up Government
25 Exhibit 1304 and take us forward to page 5 of Government

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Van Wie - Direct

1 Exhibit 1304?

2 Q. Directing your attention to line 90, what is the date?

3 A. June 14, 2021.

4 Q. When is that in relation to the e-mail with the bios that
5 we were looking at in January?

6 A. Five or six months later.

7 Q. And when is that in relation to the discussion by Menendez
8 and Sellinger playing golf in the lines above?

9 MR. WEITZMAN: Objection.

10 THE COURT: Sustained.

11 Q. Who sends a Signal message to Menendez on June 14, 2021, at
12 2:01 p.m.?

13 A. Sheikh Sultan bin Jassim al Thani.

14 Q. Can you please read the Signal message Sheikh Sultan sends
15 to Senator Menendez?

16 A. "Dear Senator. I was so pleased to speak with you briefly
17 and looking forward to seeing you in the near future. Please
18 send me the contact details to Sultan@Heritageadvisors.co.uk.
19 Best regards, Sultan."

20 Q. Directing your attention to the next line, please read what
21 is listed as Menendez' response at 2:05 p.m., but you can stop
22 after the name of the company.

23 A. "Dear Sheikh al Thani. It was a pleasure speaking with you
24 as well. Fred Daibes, Daibes Construction."

25 Q. Is there then contact information included in the message

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Van Wie - Direct

1 after that?

2 A. Yes.

3 Q. Directing your attention to line 92, who does Sheikh Sultan
4 e-mail on June 15, 2021?

5 A. Fred Daibes; and cc's Shaun Doherty.

6 MR. MONTELEONI: Mr. Hamill, can you please put up
7 Government Exhibit D302 and expand the bottom gmail on the
8 first page?

9 Q. Special Agent van Wie, can you please read the subject
10 line?

11 A. Introduction.

12 Q. Please read the cc line?

13 A. "Shaun Doherty."

14 Q. Can you please read the body?

15 A. "Dear Fred. Hope you are keeping well. I am traveling to
16 the U.S. next week and wondered if you may be available to
17 discuss a business opportunity? Please let me know when is
18 convenient for you to meet in New York. I am copying Shaun
19 Doherty, CEO of Heritage Advisors Limited, who I would like to
20 introduce to you at our meeting next week and will be main
21 point of contact at our London office. Best regards, Sultan J.
22 al Thani."

23 Q. Directing your attention under Sultan J. al Thani, can you
24 please read the logo text?

25 A. Heritage Advisors.

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Van Wie - Direct

1 MR. MONTELEONI: Mr. Hamill, can you please put up
2 Government Exhibit 1430, page 4?

3 I will now read paragraph 26: The document marked for
4 identification as Government Exhibit 2A-27 is a true and
5 accurate photograph of Shaun Doherty.

6 Mr. Richenthal, can you please put up Government Exhibit
7 2A-27 on the board?

8 Mr. Hamill, can you please publish Government Exhibit
9 2A-27? Mr. Hamill, please take us back to Government Exhibit
10 D302 and expand both e-mails on the first page.

11 Q. Now in Fred Daibes' response on the top, is anyone cc'd?

12 A. No.

13 Q. How does that compare to the bottom e-mail?

14 A. The bottom e-mail, Shaun Doherty is cc'd.

15 Q. Please read the body of Fred Daibes' response.

16 A. "It is nice to hear from you and I look forward to meeting
17 with you and Shaun next week. I am available next week. Here
18 is my private cellphone number: 1-201-336-2222. Call me when
19 you arrive and we can arrange a time and date."

20 Q. Let's return to the chart.

21 MR. MONTELEONI: Mr. Hamill, please put back up
22 Government Exhibit 1304 and take us to page 6?

23 Q. Directing your attention to line 93 at the top, can you
24 please read what Shaun Doherty sends to Sheikh sultan by
25 WhatsApp at 11:10 a.m.?

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Van Wie - Direct

1 A. "Hi Sheikh. Can you talk now?"

2 Q. Directing your attention to line 94, can you please read
3 the summary of what Doherty sends to Sheikh Sultan by WhatsApp
4 at 11:50 a.m.?

5 A. "A link reporting on guilty plea of James Demetrakis.

6 Article states: According to the U.S. Attorney's office,
7 Demetrakis worked with business partner Fred Daibes to evade
8 bank loan lending limits."

9 Q. Directing your attention to line 96, can you please read
10 what Fred Daibes sends to Sheikh Sultan and others?

11 A. "Good morning, Sultan. Monday, the 21st would be fine.
12 How about 2:00 or 2:30 in the afternoon? It would be nice if
13 you could come to our office Edgewater, New Jersey, right
14 across the river from you. The developments we would be
15 talking about are in Edgewater and I would like for you to see
16 the properties. But if that doesn't work for you, I would be
17 happy to come to NYC."

18 Q. Directing your attention to line 97, can you please read
19 the name of the person who Sheikh Sultan forwards Fred Daibes'
20 e-mail to?

21 A. Tareq al Saei.

22 Q. Directing your attention to line 98, can you please read
23 the description of what Shaun Doherty sends to Heritage HQ at
24 5:36 p.m. on June 18, 2021?

25 A. Message: Attaching "Daibesbrothers.PDF." It is a file

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Van Wie - Direct

1 noting that Daibes "was formerly CEO and chairman of Mariner's
2 Bancorp, in New Jersey," and that "in October 2018, Daibes was
3 charged with misapplying bank funds and making false and
4 fraudulent entries to obtain nominee loans." And the criminal
5 case is still active.

6 MR. MONTELEONI: Mr. Hamill, can you please put up the
7 chain cited Government Exhibit 4F-24?

8 Q. Special Agent van Wie, can you please read the name of the
9 chat at the top?

10 A. Heritage HQ.

11 Q. Directing your attention to the two messages under 18
12 June 2021, below the message with the word "Shaun" in the top
13 with Daibesbrothers.PDF, can you please read the message four
14 minutes later?

15 A. Principals, please see attached summary. My advice is the
16 meeting with Fred should not take place unless it's on a more
17 discrete venue.

18 Q. Can you please read Ali al Thawadi response two minutes
19 hater?

20 A. Maybe we can set the venue if it is needed to be discrete.

21 MR. MONTELEONI: Mr. Hamill, take us back to
22 Government Exhibit 1304, page 6.

23 Q. Directing your attention to line 101, can you please read
24 what Stephanie McLean e-mails to Fred Daibes and Jamela Maali
25 and others on June 20, 2021 at 5:10 a.m.?

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Van Wie - Direct

1 A. "Unfortunately, due to travel restrictions and
2 complications, the group cannot all make it to New York ahead
3 of tomorrow's meeting. Is it possible to switch to a new
4 meeting, please? This would be with Shaun Doherty and Andrew
5 Longmate from our London office."

6 Q. How long is this after Shaun Doherty's message saying: My
7 advice the meeting with Fred should not take place unless it is
8 on a more discrete venue.

9 MR. WEITZMAN: Objection, your Honor.

10 THE COURT: Basis?

11 MR. WEITZMAN: Motive interrogation, based on your
12 prior instruction, your Honor.

13 THE COURT: Just a moment. I will allow it.

14 A. Sorry. Can you repeat the question?

15 Q. Sure. How long is this message on line 101 that we have
16 been looking at, sent after the message on line 99?

17 A. Approximately two days.

18 Q. Now, directing your attention to line 105, on what date
19 does Stephanie McLean send this e-mail?

20 A. June 28, 2021.

21 Q. Can you please read what Stephanie McLean writes on
22 June 28, 2021?

23 A. "Following the Zoom call last week, Sheikh Sultan wondered
24 if Mr. Daibes would be available to meet in person Wednesday,
25 30th June, this week. They can come to New Jersey as proposed

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Van Wie - Direct

1 last time or meet in Manhattan, if that is preferable."

2 Q. Directing your attention to line 106, who does Fred Daibes
3 text the next day, June 29, 2021, at 5:27 p.m.?

4 A. Robert Menendez.

5 Q. Can you please read what Fred Daibes texted Menendez?

6 A. "Good afternoon, my brother. The Sultan is coming over
7 tomorrow morning at 10:00."

8 Q. Directing your attention to line 107, can you please read
9 Menendez' response at 7:03 p.m.?

10 A. "Great. I am give a call before my flight to Houston if
11 you'd like."

12 Q. Directing your attention to line 108, could you please read
13 Daibes' reply two minutes later?

14 A. "Yes, that would be great. Thank you."

15 MR. MONTELEONI: Mr. Hamill, can you please take us to
16 page 7?

17 Q. Special Agent van Wie, directing your attention past these
18 Sellinger messages we looked at previously to line 114, can you
19 please read what Sheikh Sultan e-mails to Fred Daibes C C's
20 Shaun Dougherty on June 30, 2021?

21 A. "Thank you for the opportunity to view today. It was nice
22 to meet you and I look forward to speaking again soon as we
23 progress with our projects. I am copying Shaun who will be the
24 main contact in our London office."

25 Q. Directing your attention to line 115, can you please read

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Van Wie - Direct

1 what Shaun Doherty e-mails Fred Daibes and Sheikh Sultan on
2 July 21, 2021?

3 A. Following the meeting between principals, shall we arrange
4 a call on Tuesday the 6th? It would be good to discuss the
5 specifics of the transaction and the opportunity. Let me know
6 what time suits and I will send out the diary invite and the
7 dial-in coordinates.

8 Q. Now, Special Agent van Wie, directing your attention to
9 line 117, can you please ride the date of that entry?

10 A. July 24, 2021.

11 Q. Who does Daibes send a WhatsApp message to on that date?

12 A. Robert Menendez.

13 Q. Let's look at the screen shot he ends.

14 MR. MONTELEONI: Mr. Hamill, can you please put up
15 Government Exhibit A 104-A?

16 Q. Special Agent van Wie, can you please read the display name
17 of the user who sent the top tweet in this screenshot?

18 A. Rep. Gregory Meeks.

19 Q. Are members of the House of Representatives referred to
20 with the title "Rep." in writing?

21 A. Yes.

22 Q. Can you please read representative Gregory Meeks' tweet?

23 A. "I thank Qatar for its contribution to WFP, which will
24 provide relief to the worst humanitarian crisis in the world.
25 This is an important step in support of regional peace and

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Van Wie - Direct

1 security that will save many lives.."

2 MR. MONTELEONI: Mr. Hamill, can you take us back to
3 Government Exhibit 1304 and take us to page 7?

4 Q. Directing your attention to the bottom line, line 118, who
5 does Daibes text on July 25, 2021?

6 A. Ali al Thawadi.

7 Q. Can you please read what Fred Daibes texts al Thawadi?

8 A. "Hi Ali. Our mutual friend will be issuing a statement on
9 Monday on the Qatar contribution."

10 MR. MONTELEONI: Mr. Hamill, can you please put back
11 up to one side Government Exhibit 10J-4 and expand to August?

12 Q. Special Agent van Wie, what day of the week was August 2,
13 2021?

14 A. A Monday.

15 MR. MONTELEONI: You can take Government Exhibit 10J-4
16 down, Mr. Hamill. Thank you. If you could now take us to page
17 8, Mr. Hamill?

18 Q. Directing your attention to line 120, who does Menendez
19 send a WhatsApp message to at 3:26 p.m. on Monday, August 2,
20 2021?

21 A. Fred Daibes.

22 MR. MONTELEONI: Mr. Hamill, can you please put up a
23 cited exhibit Government Exhibit A104-2 and expand the top
24 text?

25 Q. Special Agent van Wie, directing your attention to this top

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Van Wie - Direct

1 text, below the paragraph starting, For immediate release, and
2 Contact, can you please read the sentence starting, Chairman
3 Menendez?

4 A. Chairman Menendez applauds Qatari government's \$100 million
5 contribution in humanitarian assistance for Yemen.

6 Q. Does there appear to be the text of a press release below
7 that?

8 A. Yes.

9 Q. Now, further down in this green bubble under the lines with
10 the Participant, Delivered, and Read headings, can you please
11 read the display name on the participant heading?

12 A. Fred Daibes.

13 Q. Can you please read the date and time under the Read
14 heading?

15 A. August 2, 2021, at 4:56 p.m.

16 MR. MONTELEONI: Mr. Hamill, can you please put back
17 up Government Exhibit 1304, page 8?

18 THE COURT: While that is being done, sir, do you
19 think you will be able to conclude by lunch?

20 MR. MONTELEONI: I think that it is -- it could go
21 either way. I am going to aim for that.

22 THE COURT: Thank you.

23 BY MR. MONTELEONI:

24 Q. So directing your attention to line 122, what does Fred
25 Daibes do at 4:58 p.m.?

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Van Wie - Direct

1 A. He forwards the full text of the press release to Ali
2 al Thawadi.

3 Q. Is that the press release we were just looking at?

4 A. Yes.

5 Q. And directing your attention to line 123, what does Ali
6 al Thawadi do at 5:01 p.m. after receiving that forwarded
7 message?

8 A. He then forwards it to Sheikh Sultan Bin Jassim al Thani.

9 Q. And directing your attention to line 124, can you please
10 read Sheikh Sultan's response to Ali al Thawadi at 5:12 p.m. as
11 reflected on the chart?

12 A. "At last."

13 Q. Directing your attention to line 125, can you please read
14 Ali al Thawadi's reply also at 5:12 p.m.?

15 A. "It's very good."

16 Q. Directing your attention to line 127, can you please read
17 what Fred Daibes writes to Menendez at 5:43 p.m.?

18 A. "Thank you." And it followed by emoticons.

19 Q. Now, directing your attention to line 133, can you please
20 read the summary of what Ali al Thawadi sends to Sheikh Sultan
21 on August at 8:55 p.m. on August 20, 2021?

22 A. "Sending five links to articles and social media with
23 quotes "A.G. Sultzberger, the publisher of the New York Times,
24 said the company was 'deeply grateful to the government of the
25 Qatar which has been truly invaluable in getting our Afghan

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Van Wie - Direct

1 colleagues and their families to safety. Former Deputy
2 National Security Advisor, Matt Pottinger, discusses the future
3 of Afghanistan on Kudlow. Members of a celebrated all-girl
4 robotics team have made it safely out of Afghanistan. Qatar
5 officials sent the plane for the girls who are known as the
6 Afghan Dreamers. Thank you #Qatar. Thank you for all of the
7 support at this critical time. #Thereforus. Some members of
8 Afghan girls robotics team have arrived in Qatar fleeing the
9 Taliban's takeover. They will remain in Qatar to continue
10 their education, the team says."

11 Q. Directing your attention to line 134, can you please read
12 the summary of what Fred Daibes sends to Menendez at 9:39 to
13 9:40 a.m. the same day?

14 A. Sending the same five links to articles and social media
15 that Ali al Thawadi sent to Sheikh Sultan bin Jassim Al Thani
16 at 8:55 a.m.

17 Q. Directing your attention to line 135, can you please read
18 the summary of what Menendez sends to Daibes at 12:45 p.m. the
19 same day?

20 A. He sends the full text of a press release titled: Chairman
21 Menendez statement on Qatar's efforts to help house Afghans
22 seeking refuge in the United States, and includes the quote: I
23 am grateful to see our friends and allies in Qatar be moral
24 exemplars by accepting Afghans ultimately seeking safe haven in
25 the U.S. after being forced to escape for their lives.

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Van Wie - Direct

1 Q. Directing your attention to line 136, can you please read
2 what Fred Daibes writes to Robert Menendez by WhatsApp three
3 minutes later?

4 A. "Excellent. How is the vacation going?"

5 Q. Skipping down to line 138, can you please read what Robert
6 Menendez sends to Fred Daibes by WhatsApp at 12:58 p.m.?

7 A. "Well, you might want to send them. I am just about to
8 release."

9 Q. Directing your attention to the next message, can you
10 please read Daibes a reply?

11 A. "OK. I will. Try and have fun and not work too much.

12 Best to Nadine."

13 MR. MONTELEONI: Mr. Hamill, can you please take us to
14 page 9?

15 Q. Directing your attention to line 141, who does Robert
16 Menendez text on September 13, 2021?

17 A. Cory Booker.

18 Q. Can you please read the first part of what Menendez texts
19 to Booker on this date up until: All or part of it? You can
20 stop before you get to the second event.

21 A. "Great seeing you this weekend. Two items I hope you can
22 consider. The first is the most important one, the Emir of
23 Qatar is holding a dinner in my honor Sunday, the 19th, at
24 7:30 p.m. at the Plaza Hotel.

25 Q. Directing -- sorry I cut you off. If you could read the

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Van Wie - Direct

1 next sentence.

2 A. "Would really appreciate you coming either for all or part
3 of it."

4 Q. Directing your attention to line 144, who sends Sheikh
5 Sultan a WhatsApp message on September 18, 2021?

6 A. Tareq al Saei.

7 MR. MONTELEONI: And Mr. Hamill, can you please put up
8 to one side page 6 and expand line 97?

9 Q. Special Agent van Wie, who did Sheikh Sultan forward his
10 e-mail chain with Fred Daibes to back in June 2021?

11 A. Tareq al Saei.

12 MR. MONTELEONI: You can take down page 6, Mr. Hamill.
13 Thank you.

14 Q. Directing your attention to line 144, can you please read
15 what Tareq al Saei sends Sheikh Sultan on September 18, 2021 at
16 11:26 a.m.?

17 A. "This is the address for tomorrow's dinner. 41 East 70th
18 Street. Guests are expected to arrive at 7:15 p.m."

19 Q. Directing your attention to the next line, can you please
20 read what al Saei texts to Sheikh Sultan one minute later via
21 WhatsApp?

22 A. "Please send this to Fred."

23 Q. Directing your attention to line 146, what does Sheikh
24 Sultan send to Fred Daibes at 11:41 a.m.?

25 A. The same text regarding the address for the dinner.

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Van Wie - Direct

1 Q. Directing your attention to line 147, what does Robert
2 Menendez send to Cory Booker at 12:10 p.m. that day?

3 A. The same text regarding the address and time for dinner.

4 MR. MONTELEONI: Mr. Hamill, can you please take us to
5 page 10?

6 Q. Directing your attention to line 155, whose calendar entry
7 does that line reflect?

8 A. Robert Menendez.

9 Q. What does that calendar entry reflect is scheduled from
10 7:30 to 8:30 p.m. on September 19, 2021?

11 A. Qatar dinner at Plaza Hotel, 5th Avenue at Central Park
12 South, New York City, New York, 10019.

13 Q. Directing your attention to line 159, can you please read
14 what Cory Booker texts Menendez the morning after the date of
15 that calendar entry?

16 A. "Thank you for including me last night, Bob. It was an
17 honor to be there and helpful. The insights they had about
18 Afghanistan were really fascinating and illuminating. I hope I
19 get to be your wingman for more such gatherings."

20 MR. MONTELEONI: Mr. Hamill, can you please scroll us
21 down to the bottom of page 10, top of page 11? That's great.
22 Thank you.

23 Q. Special Agent van Wie, directing your attention to line 160
24 and 161, what type of files did Daibes use WhatsApp to send
25 Menendez on September 27, 2021?

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Van Wie - Direct

1 A. They are photographs.

2 Q. Let's look.

3 MR. MONTELEONI: Mr. Hamill, can you please put up
4 Government Exhibit A104-B?

5 Q. Special Agent van Wie, does this also appear to be a
6 photograph of a computer monitor?

7 A. Yes.

8 MR. MONTELEONI: Mr. Hamill, can you please expand the
9 computer monitor portion of this and I think you also expand
10 the mouseover rectangle next to the pointing hand cursor.

11 Q. Special Agent van Wie, can you please read the text of this
12 mouseover rectangle?

13 A. Patek Philippe Aquanaut 18K yellow gold black dial mens
14 watch 5060J.

15 Q. Directing your attention over to the right, a little bit up
16 from this mouseover rectangle on the line that starts with the
17 gray letters "checkout you pay" can you please read the dollar
18 figure after you pay?

19 A. \$29,090.

20 Q. Let's look at the other picture.

21 MR. MONTELEONI: Mr. Hamill, can you please put up
22 A104-C? And if we could expand again the computer monitor
23 portion of the image?

24 Q. What brand do all the watches pictured here appear to be?

25 A. They appear to be Patek Philippe.

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Van Wie - Direct

1 Q. Directing your attention to the red dollar figures on the
2 top row, can you please read the dollar figures from left to
3 right?

4 A. \$23,990; \$9,990; \$19,990.

5 MR. MONTELEONI: Mr. Hamill, can you please take us
6 back to the chart of page 11 of Government Exhibit 1304?

7 Q. Directing your attention to line 162, can you please read
8 what Fred Daibes writes to Menendez on this line?

9 A. "How about one of these?"

10 Q. About how long did Fred Daibes write this after sending
11 these photographs of the computer monitor?

12 A. One minute later.

13 Q. Now, directing your attention down to line 163, whose
14 search and web activity history does that reflect?

15 A. Robert Menendez.

16 Q. Can you please read the description what's reflected in his
17 search and web activity history from 12:54 to 1:38 p.m. that
18 day?

19 A. Multiple searches including "Patek Philippe," "Patek
20 Philippe most popular model", Patek Philippe Aquanaut,"
21 "Pre-owned Patek Philippe Calatrava Manual Wind 37mm
22 5196R-001," and "expo.com watches Patek Philippe" as search
23 terms, and he visited multiple websites regarding Patek
24 Philippe watches.

25 Q. Directing your attention to line 164, what's the date of

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Van Wie - Direct

1 this message?

2 A. September 29, 2021.

3 Q. Can you please read the URL that Daibes sends to Menendez
4 by WhatsApp? And you can stop when you get to the question
5 mark.

6 A. Congress.gov/bill/117th/congress/senate resolution/390.

7 MR. MONTELEONI: Let's look at one of the citations on
8 this line, Government Exhibit 10G-1. Mr. Hamill, can you
9 please put that up?

10 Q. Directing your attention near the top of the page below the
11 browser search bar and favorites bar next to the internet
12 archive Wayback Machine logo to the text bar above the blue
13 seven captures language, how does what is in that text bar
14 compare to the URL that you just read?

15 A. It is the same.

16 Q. Directing your attention to the right of that text bar,
17 black vertical stripe with the glue and gray triangle, can you
18 please read the yellow text within that bar?

19 A. Oct 01, 0221.

20 Q. So when was October 1 of 2021 in comparison to the
21 September 29, 2021 date when Daibes sent the link to Menendez?

22 A. It was about two days later.

23 MR. MONTELEONI: If you can drop that expansion,
24 Mr. Hamill? Thank you.

25 Q. Down below the text bar and below the maroon bar saying

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Van Wie - Direct

1 data from house for 9/30/2021 has not yet been received; on the
2 left side of the page can you please read the all caps logo?

3 A. Congress.gov.

4 Q. A few lines down can you please read the bolded language
5 starting S.RES.39?

6 A. S.RES.39, a resolution expressing appreciation for the
7 State of Qatar's efforts to assist the United States during
8 Operation Allies Refuge.

9 MR. MONTELEONI: If you can scroll us down to the
10 white rectangle?

11 Q. Directing your attention to the white rectangle, can you
12 please read the parenthetical at the end of the sponsor line
13 after the redaction mark with the words "Senator 2"?

14 A. Introduced 09/28/2021.

15 MR. MONTELEONI: And we ask the Court to instruct the
16 jury that the senators with the redacted names and numbers in
17 these exhibits such as "Senator 2" are not Robert Menendez.

18 THE COURT: That's true.

19 Q. So one line down from that, can you please read what is
20 written on the committees line on this website?

21 A. Senate-foreign relations.

22 Q. One line below that, can you please read what is written on
23 the latest action line, but you can stop when you get to the
24 parentheticals at the end of the line.

25 A. Senate, September 28, 2021. Referred to the committee on

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Van Wie - Direct

1 foreign relations.

2 Q. Let's return to the timeline.

3 MR. MONTELEONI: Mr. Hamill, can you please put up
4 Government Exhibit 1304, page 11?

5 Q. On line 164, how long did Daibes send this link to Menendez
6 after sending him the pictures of the wristwatches and asking
7 how about one of these?

8 A. Two days later.

9 MR. MONTELEONI: Mr. Hamill, can you please take us to
10 page 12 of Government Exhibit 1304?

11 Q. Directing your attention to line 165, what does Daibes send
12 Menendez on September 30, 2021?

13 A. A photograph of Robert Menendez, Nadine Menendez, and the
14 Emir of Qatar.

15 Q. By the way, have you visited a Qatari government website
16 showing a photograph of the Emir of Qatar?

17 A. I have.

18 Q. Let's take a brief look at this photo.

19 MR. MONTELEONI: Mr. Hamill, can you please put up
20 A104-D?

21 Q. Who is in this photo from left to right?

22 A. Nadine Menendez, the Emir of Qatar, and Robert Menendez.

23 Q. Let's return to the timeline.

24 MR. MONTELEONI: If you can take us back to page 12,
25 Government Exhibit 1304, Mr. Hamill?

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Van Wie - Direct

1 Q. Directing your attention to line 166, can you please read
2 what that line reflects happens on October 8, 2021?

3 A. Robert Menendez and Nadine Menendez, their flight to Qatar
4 scheduled departure.

5 Q. Directing your attention to line 167, what does Menendez
6 send to Nadine Menendez on October 10?

7 A. The same photograph of Robert Menendez, Nadine Menendez,
8 and the Emir of Qatar.

9 Q. Directing your attention to line 16, can you please read
10 what Daibes sends to Menendez by Signal on October 16, 2021?

11 A. "Good morning, my friend. John, the driver, will be
12 waiting for you at the airport. John's phone number
13 917-623-7331."

14 Q. Directing your attention to line 171, can you please read
15 what this line reflects as Menendez and Nadine Menendez'
16 scheduled arrival time into JFK?

17 A. 3:37 p.m.

18 Q. Directing your attention to line 173, how does that
19 scheduled arrival time compare to the time when John Pilot
20 calls Menendez, or line 172?

21 A. The same time.

22 MR. MONTELEONI: Mr. Hamill, can you please scroll
23 down to the bottom of page 12, top of page 13?

24 Q. So, these two October 18, 2021 searches that we have looked
25 at, when were they in comparison to the September 29, sending

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Van Wie - Direct

1 by Daibes to Menendez, the link to the Congress.gov website?

2 A. It was about three weeks later.

3 MR. MONTELEONI: Mr. Hamill, can you please put up all
4 of page 14, Government Exhibit 1304?

5 Q. Directing your attention to line 188, who calls Fred Daibes
6 by WhatsApp on November 3, 2021?

7 A. Sheikh Sultan Bin Jassim Al Thani.

8 Q. By the way, what's a WhatsApp call?

9 A. It's -- WhatsApp is an encrypted messaging service. It
10 allows you to send a message but also phone calls as well.

11 Q. Is WhatsApp the only app that can make voice calls?

12 A. No.

13 Q. FaceTime and Signal also have voice calls?

14 A. Yes.

15 Q. Do voice calls that are made by apps such as these appear
16 in the ordinary phone records that are produced by phone
17 companies?

18 MR. WEITZMAN: Objection. Foundation. Beyond the
19 scope of the summary witness that they proffered.

20 THE COURT: Sustained.

21 BY MR. MONTELEONI:

22 Q. Have you reviewed phone records in your time at the FBI?

23 A. I have.

24 Q. And have you reviewed records related to voice calls from
25 third-party apps?

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Van Wie - Direct

1 MR. WEITZMAN: Your Honor, objection.

2 THE COURT: Sustained.

3 Q. Directing your attention to line 189, who does Daibes send
4 a WhatsApp message to on November 4 of 2021?

5 A. Robert Menendez.

6 Q. How long after receiving a WhatsApp call from Sheikh Sultan
7 does he send Menendez the WhatsApp message?

8 A. It was one day later.

9 Q. Let's look at what Daibes sent.

10 MR. MONTELEONI: Mr. Hamill can you please put up
11 Government Exhibit A104-E?

12 Q. Special Agent van Wie, under the top banner can you please
13 read the words under Congress.gov bill alert?

14 A. S.Rep 390.

15 Q. So under this large Congress.gov header, how does the first
16 sentence of text compare to the title of the Senate resolution
17 we looked at earlier?

18 A. It is the same.

19 Q. Directing your attention to the next paragraph, can you
20 please read the two lines from "has changes in" down to "six
21 total"?

22 A. Has changes in co-sponsors (1 new, 6 total).

23 Q. Beneath that line, can you please read the next two lines?

24 A. Co-sponsor 10/26/2021 Senator-5.

25 Q. Let's return to the chart.

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Van Wie - Direct

1 MR. MONTELEONI: Mr. Hamill, can you please --

2 MR. WEITZMAN: Your Honor, can we get an instruction
3 on that?

4 THE COURT: Yes.

5 Senator 2 and Senator 5 are not Senator Menendez, and
6 each time we see Senator 2 and Senator 5 they're not Senator
7 Menendez.

8 MR. MONTELEONI: Mr. Hamill, can you please take us
9 back to Government Exhibit 1304 and go to the bottom of page 13
10 and the top of page 14? Go down a little bit farther
11 Mr. Hamill? Thank you. Actually, scroll down to show all of
12 page 14, Mr. Hamill. Thank you.

13 BY MR. MONTELEONI:

14 Q. So, when did Daibes send this Congress.gov image in
15 comparison to when Menendez searches for a 1 kilo gold bar on
16 line 191?

17 A. Approximately 16 days later.

18 MR. MONTELEONI: Mr. Hamill, can you please take us to
19 page 16 of Government Exhibit 1304?

20 Q. Directing your attention to line 219, can you please read
21 what Menendez writes to Sheikh Sultan on January 4, 2022, by
22 Signal?

23 A. "Greetings. I understand my friend is going to visit with
24 you on the 15th of the month. I hope that this will result in
25 the favorable and mutually beneficial agreement that you have

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Van Wie - Direct

1 been both engaged in discussing. I look forward to welcoming
2 you to New Jersey and wish you health, joy, and prosperity in
3 this new year. Warmly, Bob Menendez."

4 Q. Directing your attention to line 220, can you please read
5 what is listed as Sheikh Sultan's reply the next day?

6 A. "Good afternoon. Wishing you and your loved ones a happy
7 and prosperous 2022. Yes, we are looking forward to the
8 meeting on the 15th and hope all goes well with discussions."

9 MR. MONTELEONI: Mr. Hamill, can you please take us to
10 page 17 of Government Exhibit 1304?

11 Q. Special Agent van Wie, directing your attention to line
12 239, can you please read -- withdrawn.

13 Directing your attention to line 247, can you please read
14 what Menendez texts to a Daniel O'Brien on February 28, 2022?

15 A. "Just had dinner with the Qatars. They said something
16 about a two day shoot in October in England. What is that?"

17 Q. Directing your attention to line 248, can you please read
18 O'Brien's response the next day?

19 A. "Sheikh Sultan has a country home outside of London. They
20 mentioned that they would like to invite you to spend a night
21 there and do a little hunting, not roughing it."

22 MR. MONTELEONI: Now, Mr. Hamill, can you please take
23 us to page 20 of Government Exhibit 1304?

24 Q. Directing your attention to line 286, can you please read
25 what Menendez texts to Nadine Menendez on March 31, 2022 at

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Van Wie - Direct

1 4:02 p.m.?

2 A. I'm sorry. Line 286?

3 Q. 286, yes, at 4:01 p.m. Sorry.

4 A. "I won't get to my meeting until 7:30 p.m. Can't imagine
5 it will end before 9:00 p.m."

6 Q. Directing your attention to line 289, whose calendar that
7 does that reflect?

8 A. Robert Menendez.

9 Q. Can you please read the entry for March 31, 2022 at 7:00 to
10 8:00 p.m.?

11 A. Qatar dinner.

12 MR. MONTELEONI: Mr. Hamill, can you please take us to
13 page 21 of Government Exhibit 1304?

14 Q. Directing your attention to line 292, can you please read
15 what Nadine Menendez texts to Menendez at 9:43 p.m. on March 31
16 of 2022?

17 A. "Is it just you, Fred and the Qataris in the private room
18 this entire time?"

19 Q. Directing your attention to line 293, can you please read
20 Menendez' response also at 9:43 p.m.?

21 A. "Oui. Leaving now."

22 MR. MONTELEONI: Mr. Hamill, please scroll up to the
23 bottom top of 21, a little bit farther beyond that. Thank you.

24 Q. How does the date on which Nadine texts "is it just you,
25 Fred and the Qataris in a private room the entire time" compare

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Van Wie - Direct

1 to the date of the photograph of the gold bars on the second
2 Nadine Menendez cell phone that we just looked at earlier?

3 MR. WEITZMAN: Objection, your Honor.

4 THE COURT: I will allow that.

5 THE WITNESS: It's the same day.

6 MR. MONTELEONI: If you can take us all the way to
7 page 21, Mr. Hamill?

8 Q. Directing your attention to line 307, who does Menendez
9 send a Signal message to on May 6, 2022?

10 A. Ali al Thawadi.

11 Q. Can you please read what Menendez writes to al Thawadi?

12 A. "Good afternoon. Nadine's son lives in Miami and would
13 like to attend the Formula 1 race with his fiancée. Would you
14 have any tickets available for him? Thanks."

15 Q. Directing your attention to line 308, can you please read
16 al Thawadi's response?

17 A. "Hi. Great to hear from you. I will definitely work on it
18 and see what I can do. I would appreciate it if you can share
19 his contact information so I can pass it along as soon as I get
20 them. Best."

21 Q. Directing your attention to line 309, can you please read
22 Menendez' reply?

23 A. "Please. I thought you all had tickets. I don't want you
24 to go out of your way."

25 Q. Directing your attention to line 311, can you please read

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Van Wie - Direct

1 al Thawadi's message at 2:34 p.m.?

2 A. "Tickets are available, I just need to shuffle some things
3 around and get back to you. No worries at all."

4 MR. MONTELEONI: Mr. Hamill, can you please take us to
5 page 22?

6 Q. Directing your attention to line 317, whose address and
7 phone number does Menendez send to al Thawadi at 2:39 p.m.?

8 A. André Arslanian.

9 Q. Directing your attention to line 318, can you please read
10 al Thawadi's response to Menendez at 2:43?

11 A. "With pleasure."

12 Q. Directing your attention to line 320, can you please read
13 the summary of what Walid Sfier sends to André Arslanian?

14 A. It is the forwarded message, "Ramzi just sent you two
15 Formula-1 crypto.com Miami Grand Prix tickets," and it includes
16 a link to the tickets.

17 Q. Directing your attention to line 321, can you please read
18 what Ali al Thawadi sends to Robert Menendez through Signal?

19 A. "Good morning. Done, and he will be contacted today.
20 Best."

21 Q. Directing your attention to line 323, can you please read
22 Menendez' response to al Thawadi?

23 A. "Thank you. He is thrilled and so is his mother."

24 Q. Directing your attention back to line 322, whose calendar
25 entry is that?

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Van Wie - Direct

1 A. Robert Menendez.

2 Q. Can you please read that calendar entry starting at 3:30
3 p.m. on May 7, 2022?

4 A. Qatar.

5 Q. Directing your attention to line 325, what does Sheikh
6 Sultan send to Ali al Thawadi later that day on May 7, 2022?

7 A. He sends pictures of Ali al Thawadi with Sheikh Sultan bin
8 Jassim al Thani and another male, and al Thawadi with Robert
9 Menendez.

10 MR. MONTELEONI: Your Honor, I have about five minutes
11 left.

12 THE COURT: Go ahead.

13 MR. MONTELEONI: OK.

14 So, Mr. Hamill, can you please take us to -- we are
15 here.

16 BY MR. MONTELEONI:

17 Q. Directing your attention to line 330, can you please read
18 the summary of what Michael McManus e-mails to Shaun Doherty
19 copying Fred Daibes at 12:31 p.m. on May 23, 2022?

20 A. "Here it is. Please execute and return. And includes an
21 attachment 'LOI FAD executed.' The attachment is letter of
22 intent for Heritage 115 Holdings to enter a joint venture with
23 Daibes Enterprises and contribute \$95 million. The letter is
24 signed by Fred Daibes for Daibes Enterprises."

25 MR. MONTELEONI: Mr. Hamill can you please take us to

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Van Wie - Direct

1 page 23?

2 Q. Directing your attention to line 331, can you please read
3 the summary of what Shaun Doherty sends to several people
4 including Fred Daibes?

5 A. "The signed LOI attached for 115-145 River Road attached,
6 and the attachment is a fully signed letter of intent for
7 Heritage to make a \$95 million investment with Daibes
8 Enterprises."

9 Q. Let's look briefly.

10 MR. MONTELEONI: Mr. Hamill, can you please put up
11 Government Exhibit 4F-17 and take us to page 3?

12 Q. Could you please read just in the contributions paragraph?

13 A. "The current property owner shall contribute the property
14 to the venture. Heritage shall contribute \$95 million
15 distributed to Daibes, in exchange for their respective capital
16 account credits."

17 MR. MONTELEONI: Can you please take us to page 7 of
18 Government Exhibit 4F-17, Mr. Hamill?

19 Q. Directing your attention to the signature blocks, who has
20 signed for Daibes Enterprises?

21 A. Fred Daibes, managing member.

22 Q. What is the date next to both of the signatures on the
23 signature block?

24 A. May 23, 2022.

25 MR. MONTELEONI: Now let's go back to the timeline one

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Van Wie - Direct

1 more time. Mr. Hamill, can you please take us back to
2 Government Exhibit 1304, page 23?

3 Q. Directing your attention to line 332, can you please read
4 what Daibes writes to Menendez on Signal on May 26, 2022, at
5 10:48 a.m.?

6 A. "Hey my friend. Are you coming home tonight?"

7 Q. Directing your attention to line 333, can you please read
8 Menendez' response at 12:33?

9 A. "Yes. Coming home tonight."

10 Q. Directing your attention to line 334, can you please read
11 Daibes' reply?

12 A. "Great. Let's catch up when you get a chance."

13 Q. Skipping a few lines to line 337, can you please read
14 Menendez' 2:50 p.m. message?

15 A. "OK. How is 7:30 tonight."

16 Q. Directing your attention to line 338, can you please read
17 Daibes' response at 2:51 p.m.?

18 A. "Perfect. River Palm or do you want to go to the new
19 restaurant next to the cigar lounge? It's officially open now,
20 up to you."

21 Q. Skipping over line 339, can you please read what Daibes
22 writes at 3:14 p.m. on line 340?

23 A. "OK. See you there at 7:30."

24 Q. Directing your attention to line 341, what does Menendez
25 write at 7:33 p.m.?

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Van Wie - Direct

1 A. "At restaurant."

2 Q. Directing your attention to line 342, can you please read
3 the search terms that appear in Robert Menendez' search history
4 at 10:32 p.m. that night?

5 A. 1 kilo gold price.

6 Q. About how long does the chart reflect Senator Menendez'
7 searched for "1 kilo gold price" after he wrote "at restaurant"
8 to Daibes that evening?

9 A. About three hours later.

10 (Continued on next page)

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1 Q. About how long is the Menendez search for one kilo gold
2 price after Daibes's April 14, 2022, agreement to resolve the
3 Daibes DNJ prosecution reflected on the chart?

4 A. A little over one month.

5 Q. About how long did he conduct the search after the signing
6 of the May 23, 2022, letter of intent for Heritage to invest?

7 A. Three days later.

8 MR. MONTELEONI: No further questions.

9 THE COURT: All right. Thank you.

10 Ladies and gentlemen, enjoy your lunch. Let's be back
11 at ten after two.

12 (Continued on next page)

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1 (Jury not present)

2 THE COURT: You may step down, sir.

3 THE WITNESS: Thank you.

4 THE COURT: Please be seated.

5 Mr. Weitzman, do you have an estimate on cross, sir?

6 MR. WEITZMAN: I'm still working on it. But it's
7 going to dominate the afternoon, between two to three hours.

8 THE COURT: OK. Try to, since you're still working on
9 it, during lunch continue and hone it down.

10 MR. WEITZMAN: Yes, your Honor.

11 THE COURT: I have before me Mr. Hana's motion to
12 strike Joshua Paul's testimony on redirect at page 946 of the
13 transcript and to strike J. J. Gilday's proposed testimony
14 regarding FARA. I'm gold to limit Gilday's testimony. I'm not
15 going to let him testify to the purpose, structure or terms of
16 FARA. FARA is the law. It's a regulatory framework; that's
17 for me to instruct the jury on. And in fact, the parties have,
18 in the charges on Counts Fifteen and Sixteen the references to
19 FARA that this jury needs to understand it. It doesn't have to
20 understand all the intricacies of it. That would be a waste of
21 the jury's time.

22 Gilday can testify only to who he is; to what the
23 database looks like, and give him a copy of the database, if
24 that's what the government proposes, so he sees the format of
25 it. He can say those who are on it or those who are registered

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1 pursuant to FARA if, in fact, that's the case. He can testify
2 to the search he was asked to undertake and the results of that
3 search. That's it.

4 Let me go back and make sure it's clear: Who he is;
5 what the database looks like; the fact that -- again, if it's
6 true -- those who have registered pursuant to FARA are listed
7 on it. I take it he can also testify to how one manipulates
8 the database, if that's relevant. He can testify to what he
9 was asked to do in terms of the search and the result of that
10 search. He can't provide an overview of FARA or its purposes
11 or terms or respond to any questions about the charges or
12 actions of anyone in this action. That's No. 1.

13 Two, I'll instruct the jury that Hana is not charged
14 in the indictment with violating FARA; that is, he's not
15 charged with having acted as an unregistered agent of a foreign
16 government. The parties should talk to each other and propose
17 a limiting instruction. You gave me two proposed limiting
18 instructions. Get together and give me a joint one, to the
19 extent you can. I assume you'll be able to do it, and you'll
20 tell me when you want me to give that limiting instruction.

21 Third, I'm striking the excerpt of Joshua Paul's
22 redirect on page 946 from lines 11 to the top of page 947, line
23 2. Those are the two questions and the two answers that the
24 motion was about.

25 I'm doing this pursuant to Rule 403 and the finding

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1 that the low probative value of that information is
2 substantially outweighed by the danger of unfair prejudice,
3 confusing the issues, misleading the jury and undue delay that
4 would result from a mini trial on the intricacies of FARA.

5 That's my decision on that pending motion.

6 I'll see everybody at 2:10.

7 Thank you.

8 MR. RICHENTHAL: One quick question?

9 THE COURT: Yes.

10 MR. RICHENTHAL: I think this is implicit in what your
11 Honor just said, but I take it Mr. Gilday could also testify
12 that the database is public.

13 THE COURT: Yes. Yes.

14 MR. RICHENTHAL: I wanted to make sure.

15 THE COURT: Absolutely.

16 2:10.

17 Thank you.

18 (Luncheon recess)

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1 AFTERNOON SESSION

2 2:10 p.m.

3 (Jury not present)

4 THE COURT: All right. Take your places. Put the
5 witness on the stand. Let's finish with the crosses today.6 MR. MONTELEONI: Your Honor, before the witness goes
7 on, I've just spoken to defense counsel, and because we have a
8 witness who is going to be very short, Mr. Mearns, who's
9 traveled up from the South to be here today, defense counsel
10 has consented to potentially putting him on after the afternoon
11 break.12 THE COURT: If that's with the consent of the parties,
13 that's perfectly fine with me.14 Do you want to put him on now? You can put him on
15 whenever the parties want.16 MR. WEITZMAN: I think after the break. Let me get an
17 hour in.18 THE COURT: All right. Again, let's try to finish up
19 with Mr. Van Wie today.

20 Where is Mr. Van Wie?

21 (Continued on next page)

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Van Wie - Cross

1 (Jury present)

2 THE COURT: Please be seated in the courtroom.

3 You may continue -- oh, no. I'm sorry. You're done
4 with the direct.

5 You may cross-examine, Mr. Weitzman.

6 MR. WEITZMAN: Thank you, your Honor.

7 CROSS-EXAMINATION

8 BY MR. WEITZMAN:

9 Q. Good afternoon, Agent Van Wie.

10 A. Yes. Good afternoon.

11 Q. This is your first time ever being a summary witness,
12 correct?

13 A. Yes.

14 Q. You've been an agent in the FBI for, I think you said about
15 four and a half years?

16 A. Yes.

17 Q. And before then you were a lawyer, right?

18 A. Yes.

19 Q. Were you a practicing lawyer or just trained as a lawyer in
20 law school?

21 A. I was a practicing lawyer.

22 Q. OK.

23 You got instructions from the government as to what to do
24 with the exhibits upon review of them, right?

25 A. Yes.

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Van Wie - Cross

1 Q. And what were the instructions you received?

2 A. It was to verify the content in each row of the summary
3 chart and compare that to the government exhibit that it was
4 cited in that same row.

5 Q. And before receiving a copy of the summary exhibit, did you
6 receive a copy of the government's exhibits, or did you receive
7 them at the same time?

8 A. I believe it was the same time. I can't recall exactly the
9 order in which I got them.

10 Q. So you may have received the government exhibits and then
11 the summary charts or vice versa; you're not sure?

12 A. I can't recall at this point.

13 Q. OK. And at some point in time early on in the process, the
14 government asked you to familiarize yourself with the
15 government exhibits, right?

16 A. I believe so.

17 Q. And do you recall that they specifically asked you to make
18 sure you do not interpret the exhibits?

19 A. Don't recall.

20 Q. OK. You met with the government prosecutors around, in a
21 phone call on April 12, 2024. Does that ring a bell?

22 A. I recall around that time period. I don't know exact, the
23 exact date, but --

24 Q. You've been prepping for your testimony about two months,
25 right?

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Van Wie - Cross

1 A. Yes.

2 THE COURT: I take it you haven't been preparing for a
3 full two months. Have you been? I shouldn't -- let me ask you
4 this way. Is that what you've been doing for two months?

5 THE WITNESS: Not solely. There --

6 THE COURT: Well, I take it you have other
7 responsibilities at the FBI.

8 THE WITNESS: Yes.

9 THE COURT: OK.

10 THE WITNESS: Yes.

11 THE COURT: OK.

12 MR. WEITZMAN: Can we put up 3543-002, just for the
13 witness and the Court.

14 Q. If you would read this to yourself, and in particular, the
15 last bullet point. Let me know when you're done.

16 A. Yes, I've read it.

17 Q. And putting that aside, does this refresh your recollection
18 that on a call on April 12, 2024, the SDNY prosecutors, in
19 sending you exhibits, asked you not to interpret the exhibits?

20 THE COURT: Now, Mr. Van Wie, the way this works, and
21 the jury is familiar with this, is you said you didn't have a
22 recollection about this subject, so Mr. Weitzman is entitled to
23 put something up and to see if that refreshes your
24 recollection. But I don't want you to necessarily assume that
25 whatever is on the screen is true. It may be; it may not be.

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Van Wie - Cross

1 The only issue is whether or not looking at what's on the
2 screen gives you a refreshed recollection.

3 Do you now have a refreshed recollection?

4 THE WITNESS: From that specific call, I can't recall
5 that exactly being said, but in subsequent conversations, yes.

6 BY MR. WEITZMAN:

7 Q. OK. And so you made sure, as best as you can, despite
8 being an agent and a lawyer, not to interpret the documents?

9 A. That's correct.

10 Q. OK. And just so I understand the process, any judgment
11 calls about what gets included in the chart or excluded from
12 the chart, you weren't making those judgment calls, right?

13 A. That's correct.

14 Q. You relied on the prosecutors, these prosecutors here, to
15 make those judgment calls, right?

16 A. The U.S. Attorney's Office, yes.

17 MR. WEITZMAN: OK. Let's go to the summary chart,
18 Government Exhibit 1304, if we can put that up, page 1.

19 Q. This is the summary chart you spent the morning testifying
20 about. If I can direct your attention to lines 2 and 3, those
21 are exchanges, emails between Michael Soliman and Senator
22 Menendez, correct?

23 A. That is correct, yes.

24 Q. And in line 2, Michael Soliman sends an email to Senator
25 Menendez regarding an article someone named David was writing

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Van Wie - Cross

1 regarding the U.S. Attorney nomination process, correct?

2 A. Yes.

3 Q. And in response, Senator Menendez writes, I don't know that
4 Philip is saying this to anyone because he's smarter than that.
5 Do you see that?

6 A. Yes.

7 Q. I know you weren't asked to interpret anything, but do you
8 have an understanding that the Philip referenced in this email
9 is Philip Sellinger?

10 A. Well, it doesn't say Philip Sellinger. You know, the line
11 before it does say Philip Sellinger. So that's the only way I
12 could really, you know, verify that.

13 Q. OK. Fair enough.

14 And row 3 ends with that quote, right?

15 A. Yes, that's where it ends.

16 Q. You reviewed the underlying exhibit, Government Exhibit
17 A408, to confirm the accuracy of that entry, right?

18 A. Yes.

19 MR. WEITZMAN: OK. Let's pull up Government Exhibit
20 A408. If we can do side by side.

21 Q. And in Government Exhibit A408, Senator Menendez has more
22 than just that line, he's smarter than that, correct? He also
23 writes, but his name has been out there before.

24 Do you see that?

25 A. Yes.

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Van Wie - Cross

1 Q. That last line isn't included in your chart, right?

2 A. No.

3 Q. Did you raise that with the prosecutors?

4 A. No.

5 Q. Have you seen documents that show that Senator Menendez was
6 planning, if he could, to nominate Mr. Sellinger as U.S.
7 Attorney in 2016?

8 MR. MONTELEONI: Objection.

9 THE COURT: Sustained.

10 BY MR. WEITZMAN:

11 Q. In reviewing this chart, you reviewed hundreds of
12 government exhibits, correct?

13 A. I'm not sure how many exhibits it is. It's many that are
14 listed here in this chart. I didn't count them.

15 Q. Many, many, many exhibits, right?

16 A. Many, yes.

17 Q. Hundreds, if not thousands, of pages, right?

18 A. Yes.

19 Q. OK. And were some of the exhibits that you reviewed --
20 some of the documents you reviewed did not make it on to this
21 chart, correct?

22 THE COURT: Did you look at more documents than are --
23 What, the underlying documents listed on this chart;
24 is that what you're asking?

25 MR. WEITZMAN: Correct.

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Van Wie - Cross

1 THE COURT: OK. If you know.

2 A. It's possible.

3 Q. Do you recall reviewing a document that showed that Senator
4 Menendez was planning to nominate Mr. Sellinger for the U.S.
5 Attorney position back in 2016?

6 MR. MONTELEONI: Objection.

7 THE COURT: I'll allow that.

8 A. Off the top of my head, I don't recall an exact document,
9 but if you have one, it might help refresh memory.

10 Q. It's OK. We can move on.

11 Now, you, in addition to Government Exhibit 1304, also
12 verified Government Exhibit 1351, correct?

13 MR. WEITZMAN: Can we put that up on the screen.

14 A. Yes.

15 Q. This is calls between Senator Menendez's numbers and
16 Sellinger's cell phone over a three-day period, correct?

17 A. Correct.

18 Q. Did you choose the three-day period that would be
19 summarized in this exhibit?

20 A. No.

21 Q. The prosecutors decided which three days would be
22 summarized, correct?

23 A. Yes.

24 Q. OK. And the December 17 call on this exhibit is actually
25 on the other chart, 1304, correct? Do you recall that?

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Van Wie - Cross

1 THE WITNESS: If you could pull it up so I could
2 compare.

3 MR. WEITZMAN: Yeah, let's do that. Do side by side
4 with page 2 of exhibit 1304. Let's put up line 35.

5 Line 35. Thank you, Mr. Kelly.

6 Q. So this is the 10:49 call that's already on 1304 and
7 summarized in 1351, right?

8 A. Correct.

9 Q. 1351 doesn't reflect any connected call that 1304 -- that's
10 not on 1304, right?

11 A. Sorry. 1351 does not reflect a call that's not on --

12 Q. Yeah, a connection, a connected call that's not also
13 reflected on 1304. Right?

14 THE COURT: Can you ask it without two negatives?

15 MR. WEITZMAN: Yes.

16 THE WITNESS: Yeah. Sorry. Thank you.

17 BY MR. WEITZMAN:

18 Q. All connections, all connected calls referenced on
19 Government Exhibit 1351 are also on Government Exhibit 1304 in
20 this precise line entry you're looking at, right?

21 THE WITNESS: I would need to see, maybe, 30 -- line
22 33 if the 8:58 call is on there.

23 MR. WEITZMAN: Sure. Just go down. Expand to line
24 33.

25 Q. Do you see that's there?

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Van Wie - Cross

1 A. Correct.

2 Q. OK.

3 A. The -- the 8:58 voice mail does not appear on 1304, the
4 chart.

5 Q. Do you see that there's a December 17 voice mail at 8:59
6 a.m. from Phil Sellinger to Robert Menendez?

7 A. Yes.

8 Q. Do you think that that's the same one as the 8:58 voice
9 mail deposit?

10 MR. MONTELEONI: Objection.

11 THE COURT: If he has reason to know one way or the
12 other, he can answer.

13 THE WITNESS: If we could pull up the government
14 exhibit so I can compare that voice mail to -- to confirm, that
15 would help.

16 MR. WEITZMAN: Sure. Let's put up Government Exhibit
17 A119-A.

18 Oh, no. A119, not A. OK.

19 You know what? Let's move on for now.

20 Q. Fair to say that the calls that you reviewed between Phil
21 Sellinger and Bob Menendez are not limited to the December 17
22 call that we just looked at, correct? You're aware, sir, that
23 there are many other more calls between Robert Menendez and
24 Phil Sellinger, phone calls, on the records that you reviewed?

25 THE COURT: More than are listed in the document you

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Van Wie - Cross

1 just showed him.

2 MR. WEITZMAN: Correct.

3 A. Yes, I believe there were other phone calls in the chart.

4 Q. OK. And are you aware that there are other phone calls
5 between Phil Sellinger and Robert Menendez that aren't even
6 listed in the chart?

7 A. That I'm not sure of.

8 MR. WEITZMAN: OK. Well, let's go to -- let's go back
9 up to line 35.

10 Q. In line 35, the underlying document that you reviewed that
11 reflected a call between Robert Menendez and Phil Sellinger is
12 GX 6B-501, correct?

13 A. Yes.

14 Q. So you reviewed that document to confirm the accuracy of
15 this entry, right?

16 A. Yes.

17 MR. WEITZMAN: OK. Let's put up Government Exhibit
18 6B-501. And can we go to page -- let's pause there.

19 Q. Do you recognize this as phone records related to a phone
20 number associated with Phil Sellinger?

21 A. Yes.

22 MR. WEITZMAN: OK. Let's go to page 280, and if we
23 could go to the 2:31 p.m. entry.

24 Q. Sir, do you see an incoming call that's six minutes long on
25 December 28 at 2:31 p.m. from a phone number that ends in 8400,

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Van Wie - Cross

1 which is associated with Senator Menendez?

2 A. Yes.

3 MR. WEITZMAN: OK. Is there -- if you go to December
4 28 on your chart. And if we could go side by side?

5 THE COURT: You mean chart 1304.

6 MR. WEITZMAN: 1304. And if we can put up page 3,
7 lines 48 -- 47 through 50.

8 Q. Your chart doesn't reflect a call between Senator Menendez
9 and Phil Sellinger on December 28 here, does it?

10 A. No.

11 MR. WEITZMAN: OK. And if we can go back up to the
12 Greenberg Traurig phone records.

13 THE COURT: Just a minute. Just a minute.

14 MR. WEITZMAN: Yes, your Honor.

15 THE COURT: Go ahead. Continue.

16 MR. WEITZMAN: If we can go back up to the Greenberg
17 Traurig phone records, which is Government Exhibit 1305, and
18 let's go to 332. I'm sorry. That was Government Exhibit
19 6B-501, page 332. And let's pull up April 20 and look at the
20 5:17 p.m. entry.

21 Q. Do you recognize the phone number ending in 4744 as one of
22 the phone numbers associated with Senator Menendez?

23 A. Yes.

24 Q. And based on this entry, you're aware that on April 20 at
25 5:17 p.m., there was a nine-minute call between Senator

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Van Wie - Cross

1 Menendez and Phil Sellinger?

2 MR. MONTELEONI: Objection.

3 BY MR. WEITZMAN:

4 Q. Does this document reflect a nine-minute phone call between
5 the phones associated with Phil Sellinger and Senator Menendez?

6 THE COURT: I'll allow that.

7 A. Yes.

8 MR. WEITZMAN: OK. And if we can do a split screen,
9 and if we can go back to Government Exhibit 1305, and let's go
10 to page 4. Actually, page 5, top of page 5.

11 Q. On your chart --

12 MR. MONTELEONI: Objection. You said 1305. This is
13 1304.

14 MR. WEITZMAN: I meant 1304, for the record. Thank
15 you, Mr. Monteleoni.

16 Q. On April 20, 2021, there were a series of Signal messages
17 between Robert Menendez and Mike Soliman, correct?

18 A. Correct.

19 Q. And at 4:57 p.m., line 75, Robert Menendez tells Mike
20 Soliman, also beginning to do a plan B just in case, correct?

21 A. Correct.

22 Q. And you can't interpret what plan B is, right?

23 A. No.

24 Q. But you know that within 20 minutes, at 5:17 p.m., Senator
25 Menendez calls Phil Sellinger, correct?

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Van Wie - Cross

1 MR. MONTELEONI: Objection.

2 THE COURT: Just a moment.

3 BY MR. WEITZMAN:

4 Q. The phones of Senator Menendez and Phil Sellinger
5 communicate for nine minutes?

6 THE COURT: Is that what's reflected in the chart
7 that's in the top here?

8 THE WITNESS: Yes.

9 BY MR. WEITZMAN:

10 Q. Is there a reason that your chart doesn't reflect that
11 phone call right after the plan B Signal message in line 75,
12 sir?

13 A. I don't know.

14 Q. Did you bring it to the government's attention, that they
15 left out this phone call that was nine minutes long?

16 MR. MONTELEONI: Objection.

17 THE COURT: Sustained to phrasing.

18 Did you bring it to their attention, that that call is
19 not on the chart?

20 THE WITNESS: No. I only verified the information
21 that was already in the chart to make sure that it was
22 accurate.

23 MR. WEITZMAN: You can take down the phone records,
24 and let's stick with Government Exhibit 1304.

25 Q. Now, if you go back one page, lines 37 -- two pages, excuse

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Van Wie - Cross

1 me. Starting in lines 37, you see there are references a
2 number of times to someone named Suarez, correct?

3 A. Correct.

4 Q. And do you know that -- do you understand that person,
5 based on your review of the documents, to be Esther Suarez?

6 A. Yes, I believe it -- it becomes clear in the following
7 text.

8 Q. OK. The chart doesn't include any communications -- not
9 one -- between Senator Menendez and Esther Suarez, right?

10 A. Not in the chart, no.

11 Q. OK. And the chart doesn't include any communications at
12 all with Ms. Suarez, right?

13 A. Not as far as I can recall.

14 Q. OK. So all the references to Ms. Suarez on this chart are
15 references of what other people are saying about Ms. Suarez,
16 right?

17 MR. MONTELEONI: Objection.

18 THE COURT: Sustained.

19 BY MR. WEITZMAN:

20 Q. Based on your review of the documents on this chart, are
21 you aware, based on the review of documents, that Ms. Suarez
22 was the first person that Senator Menendez recommended to the
23 White House to become U.S. Attorney in New Jersey?

24 MR. MONTELEONI: Objection.

25 THE COURT: Sustained.

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Van Wie - Cross

1 BY MR. WEITZMAN:

2 Q. Sir, do you know who Ms. Suarez is on this chart, why she's
3 on this chart, from your review of the documents?

4 A. Sorry. Can you --

5 Q. Yeah. Do you know --

6 THE COURT: Do you know who Ms. Suarez is?

7 THE WITNESS: I believe it says that she was the
8 Hudson County prosecutor.

9 BY MR. WEITZMAN:

10 Q. And do you know whether she was recommended to be the U.S.
11 Attorney in New Jersey for consideration by the White House?

12 MR. MONTELEONI: Objection.

13 THE COURT: I'll allow it.

14 A. I don't know.

15 Q. This chart doesn't include any of Ms. Suarez's credentials
16 at all, right; not her bio, other than former state court
17 judge, I think you said?

18 THE COURT: Sustained.

19 BY MR. WEITZMAN:

20 Q. Does this chart include her credentials?

21 MR. MONTELEONI: Objection.

22 THE COURT: To your knowledge, does anything on this
23 chart reflect Ms. Suarez's credentials? Yes or no, or I don't
24 know.

25 THE WITNESS: I think it's just simply her experience,

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Van Wie - Cross

1 I believe.

2 BY MR. WEITZMAN:

3 Q. Did you review any documents that reflect endorsement
4 letters for Ms. Suarez?

5 MR. MONTELEONI: Objection.

6 THE COURT: Sustained.

7 BY MR. WEITZMAN:

8 Q. Do you recall reviewing a White House memo as part of your
9 review of the underlying government exhibits that requested
10 certain criteria for --

11 THE COURT: Sustained.

12 Do you remember reviewing a document from the White
13 House?

14 THE WITNESS: I don't recall.

15 MR. WEITZMAN: OK. Let's go to line 54.

16 Q. Do you see line 54 is a Signal message between Mike
17 Soliman, Fred Turner and Robert Menendez?

18 A. Yes.

19 Q. Did you review the underlying Signal message?

20 A. Yes.

21 MR. WEITZMAN: Can we go to Government Exhibit -- do a
22 side by side, Government Exhibit A114-PH. And if you go to the
23 next page, the next page after that -- no. The prior page.
24 Thank you. One more before then, please.

25 There it is.

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Van Wie - Cross

1 Q. You see that this Signal chat from Mike Soliman is quoted,
2 in part, in your entry, correct?

3 A. Correct.

4 MR. WEITZMAN: OK. Now if we can go to page 6 of the
5 Signal chart, and if we can zoom in on that. If you can scroll
6 up to the top.

7 Q. This was in the document you reviewed that's underlying
8 this chart, correct?

9 THE WITNESS: If I could see the full exhibit?

10 MR. WEITZMAN: Sure.

11 Can we blow that up, Mr. Kelly, the full exhibit.

12 THE WITNESS: Also just seeing the, I guess.

13 MR. WEITZMAN: There we go.

14 THE WITNESS: The top, entirety of the exhibit, just
15 so I can see the number as well?

16 MR. WEITZMAN: Sure. Why don't we go back to the
17 first page so that you can -- let's look at the number on the
18 bottom, the exhibit number.

19 Q. Do you recognize that as A114-PH?

20 A. Yes.

21 Q. That's the document you reviewed to confirm the accuracy of
22 this chart, correct?

23 THE WITNESS: If I could then just see the line in the
24 spreadsheet as well?

25 A. Yes.

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Van Wie - Cross

1 MR. WEITZMAN: OK. And then if we could go to page 6
2 and zoom in on the memo from the top all the way to the
3 signature.

4 Q. Sir, you recognize this as part of that exhibit that you
5 reviewed, correct?

6 A. It is part of the exhibit, yes.

7 Q. And it's signed by Dana Remus, the White House Counsel
8 designate, correct?

9 THE WITNESS: If you could just raise it a little bit,
10 there's -- I can't see.

11 A. Yes.

12 THE WITNESS: Thank you.

13 BY MR. WEITZMAN:

14 Q. And it's dated December 22, 2020, right?

15 A. Yes.

16 Q. And this is the White House memo that concerns a request
17 for highly qualified and diverse candidates for U.S. Attorney,
18 correct?

19 THE COURT: Sustained.

20 BY MR. WEITZMAN:

21 Q. Do you see in the first paragraph Dana Remus writes, "Today
22 I am writing to invite you to provide recommendations for
23 highly qualified and diverse candidates for U.S. Attorney"?

24 A. Yes.

25 Q. The chart does not include, the summary chart that you

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Van Wie - Cross

1 verified does not include any part of this White House memo,
2 correct?

3 MR. MONTELEONI: Objection.

4 THE COURT: I'll allow it.

5 Does the chart itself -- apart from the reference to
6 the underlying documents, does the face of the chart reflect
7 the contents of that document signed by Dana Remus? Yes, no, I
8 don't know.

9 THE WITNESS: No, I don't believe this has an excerpt
10 in the chart.

11 BY MR. WEITZMAN:

12 Q. OK. And do you recall the chart that you verified doesn't
13 have the words "diverse" or "diversity" even once appear in the
14 chart?

15 MR. MONTELEONI: Objection.

16 THE COURT: Sustained.

17 MR. WEITZMAN: Let's look at rows 70 to 75.

18 Actually, hold on a second. I'd like to shift gears
19 and talk about Mr. Daibes for a moment, if we can put the chart
20 up.

21 Q. Now, the first, the very first row of this chart references
22 an indictment on October 30, 2018. Do you see that?

23 A. Yes.

24 MR. WEITZMAN: Now let's look at line 192.

25 Q. And this is a November 26, 2021, entry, correct?

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Van Wie - Cross

1 A. Yes.

2 Q. This occurs three years after the indictment deadline --
3 indictment date, is that correct?

4 A. Yes.

5 Q. And it states that Daibes rejects a plea offer in his case,
6 right?

7 A. Yes.

8 Q. And he's focusing more -- he's beginning more focused
9 preparations for trial in advance of jury selection scheduled
10 for January 11, 2022, right?

11 MR. MONTELEONI: Objection.

12 THE COURT: No. I'll allow that.

13 Is that what that says.

14 THE WITNESS: That's what that says, yes.

15 BY MR. WEITZMAN:

16 Q. The chart doesn't include the contents of the plea offer,
17 right?

18 A. No.

19 Q. It doesn't say whether there were negotiations?

20 A. No.

21 Q. Or why Mr. Daibes rejected the plea offer, correct?

22 A. I don't believe so, no.

23 MR. WEITZMAN: Now, if we can take a look at line 197.

24 Q. Less than a month, just a couple of weeks later, after that
25 November 26 rejected plea offer, the U.S. Attorney's Office in

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Van Wie - Cross

1 New Jersey offers Daibes another plea deal, correct?

2 THE COURT: According to this chart, is that true?

3 THE WITNESS: Yes. That's what the chart says.

4 THE COURT: You don't have any knowledge of that one
5 way or the other, correct?

6 THE WITNESS: No.

7 THE COURT: OK.

8 BY MR. WEITZMAN:

9 Q. Again, it says in this line that Daibes rejects that in
10 mid-December, correct?

11 A. Correct.

12 Q. But there's no indication in the chart of what the plea
13 offer was or anything else, right?

14 MR. MONTELEONI: Objection. 403 into history of this
15 entry.

16 THE COURT: I'll allow that question.

17 MR. WEITZMAN: OK.

18 THE COURT: You can answer that question.

19 THE WITNESS: Can you repeat the question for me,
20 please?

21 MR. WEITZMAN: I can't, but I'll rephrase it.

22 THE COURT: There's no indication in the chart of what
23 the plea offer was or anything else, correct?

24 THE WITNESS: Not in this line entry, no.

25 THE COURT: Next.

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Van Wie - Cross

1 BY MR. WEITZMAN:

2 Q. The next reference to a plea is line 244, and that's dated
3 February 10, 2022, correct? And there's a reference to a
4 presentation that Mr. Daibes's counsel makes to Vikas Khanna,
5 correct?

6 A. That's what is referred to, yes.

7 Q. And in the presentation, at least in this line, it says
8 that he's seeking a plea to a misdemeanor offense with the
9 sentence of probation. Do you see that?

10 A. Yes.

11 MR. WEITZMAN: Now let's look at the cited exhibit,
12 which is Government Exhibit 1401, if we can turn to page 2,
13 paragraph b.14 Q. Page 2, paragraph b says, prior to the commencement of the
15 Daibes DNJ prosecution in October 2018, Daibes's counsel gave a
16 presentation to the U.S. Attorney for the District of New
17 Jersey and first assistant, among others, during which Daibes's
18 counsel advocated against criminal charges being brought
19 against Daibes. Do you see that?

20 A. Yes.

21 Q. You understand that, based on this, Mr. Daibes's counsel
22 met with the former U.S. Attorney regarding a potential case
23 before the indictment, right?

24 A. If that's what it says, yes.

25 Q. OK.

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Van Wie - Cross

1 A. I don't have any knowledge of that.

2 Q. Now, again, that's not on this chart that you verified,
3 right? Do you recall the first line entry was October 30,
4 2018, with the indictment?

5 A. Yes.

6 MR. WEITZMAN: OK. So now let's go back to Government
7 Exhibit 1304, and if we can go to row 244.

8 Q. In row 244, it states, on February 10, 2022, the U.S.
9 Attorney's Office for the District of New Jersey communicated
10 to Daibes's counsel that it would enter into an agreement
11 pursuant to which Daibes would receive a sentence of probation.
12 Do you see that?

13 A. Yes.

14 THE COURT: Just a moment.

15 Well, I don't know. I just don't want there to be
16 anything misleading. It says subsequently.

17 MR. WEITZMAN: Correct.

18 THE COURT: OK.

19 MR. WEITZMAN: It's not dated February 10, correct.
20 That's the line entry.

21 Q. You understand, sir, that based on that parenthetical, the
22 plea offer that was communicated to Daibes's counsel was that
23 he would not have to serve any imprisonment; it would be a
24 probationary sentence?

25 MR. MONTELEONI: Objection.

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Van Wie - Cross

1 THE COURT: Do you have any understanding one way or
2 the other of that?

3 THE WITNESS: Other than what the chart says, no
4 knowledge of that.

5 BY MR. WEITZMAN:

6 Q. Did you review the underlying plea agreement?

7 THE COURT: Is that 1401? Is that what you're asking?

8 MR. MONTELEONI: Objection. We have a history-based
9 objection to this.

10 MR. WEITZMAN: I'll move on, your Honor.

11 THE COURT: Yes.

12 BY MR. WEITZMAN:

13 Q. Now, if we can go to line 211, it states, on December 23,
14 2021, that Daibes's trial, which was scheduled for January 11,
15 2022, was adjourned. Do you see that?

16 A. Yes.

17 Q. And an adjournment is a postponement, correct?

18 A. Yes.

19 THE COURT: Well, it's moving something from one date
20 to a later date, is that correct?

21 THE WITNESS: That's correct.

22 THE COURT: All right.

23 BY MR. WEITZMAN:

24 Q. And do you recall, based on your review of the underlying
25 document, why it was postponed?

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Van Wie - Cross

1 MR. MONTELEONI: Objection.

2 THE COURT: Do you have any understanding from your
3 review of the documents that you looked at why it was
4 adjourned?

5 THE WITNESS: I don't recall seeing a reason.

6 MR. WEITZMAN: OK. Well, let's look at government --

7 Q. You looked at Government Exhibit 8D-1, according to this
8 chart, is that correct?

9 A. Yes.

10 MR. WEITZMAN: Let's take a look at Government Exhibit
11 8D-1. And if we can --

12 Q. Do you recognize what this is, sir?

13 A. Yes.

14 Q. This is what we call a Pacer entry. Are you familiar with
15 that?

16 A. Not personally, no.

17 Q. OK. Do you recognize this as an order of the court and
18 this is the text of the order from the court?

19 A. Yes, says text order --

20 Q. OK.

21 A. -- as to Fred Daibes.

22 MR. WEITZMAN: If we can blow up the middle.

23 Q. And it states in consideration of the existing pandemic and
24 associated safety concerns for conducting a jury trial in
25 January, the presently scheduled trial date of January 11,

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Van Wie - Cross

1 2022, is hereby adjourned. And then it says, two sentences
2 after that, the deadlines that have been agreed upon and those
3 set by the court are hereby suspended until further notice. Do
4 you see that?

5 A. Yes.

6 Q. OK. Is there a reason why the chart doesn't say it was
7 adjourned due to Covid?

8 THE COURT: Sustained.

9 BY MR. WEITZMAN:

10 Q. In any event, sir, you understand now, based on your review
11 of this, that the adjournment was due to Covid, correct?

12 MR. MONTELEONI: Objection.

13 THE COURT: Do you have an independent understanding,
14 apart from what this document says, as to why the trial was
15 adjourned?

16 THE WITNESS: No.

17 MR. WEITZMAN: Can we go to --

18 THE COURT: But you see it says that on this document,
19 correct?

20 THE WITNESS: The --

21 THE COURT: It gives a reason why on the document.

22 THE WITNESS: There is a reason, yes.

23 THE COURT: OK. Next.

24 MR. WEITZMAN: If we can go to lines 211 to 213 of
25 Government Exhibit 1304.

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Van Wie - Cross

1 Q. So we just looked at the order, which was line 211,
2 correct?

3 A. Yes.

4 Q. OK. And then there's a communication from Fred to Nadine
5 that same day approximately seven hours later, correct? That's
6 great, you both need an good relaxing night. Enjoy. How is he
7 feeling, do you see that?

8 A. Yes.

9 Q. Just to be clear, based on your review of documents, did
10 you see any communication, email or phone call from Daibes's
11 counsel to Daibes regarding this trial adjournment?

12 MR. MONTELEONI: Objection.

13 THE COURT: Do you recall seeing anything that
14 indicated a call from, quote, Daibes's counsel to Daibes
15 regarding the trial adjournment?

16 THE WITNESS: If it's not in the chart, then I
17 wouldn't have been looking for it.

18 BY MR. WEITZMAN:

19 Q. OK. And you didn't see -- if it's not on this chart, you
20 didn't see any phone call from Daibes to Senator Menendez
21 informing him of this trial adjournment, right?

22 MR. MONTELEONI: Objection.

23 THE COURT: Is there anything on the chart, to your
24 knowledge, that reflects a phone call from Daibes to Menendez
25 informing Menendez of the trial adjournment?

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Van Wie - Cross

1 THE WITNESS: I don't recall seeing that in the chart.

2 BY MR. WEITZMAN:

3 Q. OK. Same question with respect to a phone call from Daibes
4 to Nadine Menendez; anything indicating that Fred spoke to
5 Nadine other than these communications after entry of the order
6 on December 23 --

7 THE COURT: Sustained.

8 Q. -- 2021?

9 Does your chart indicate any phone call from Fred Daibes to
10 Nadine between 1:53 p.m. and 9:09 p.m. on December 23, 2021?

11 A. No.

12 Q. In your review of the underlying documents and phone
13 records, did you see any such evidence?

14 A. If it wasn't there, I wasn't looking for it.

15 Q. Do you have any document, based on your review of the
16 underlying documents, that reflects whether Fred Daibes knew
17 that his trial was adjourned at 9:09 p.m. on December 23?

18 MR. MONTELEONI: Objection.

19 THE COURT: Sustained.

20 BY MR. WEITZMAN:

21 Q. Now, Nadine responds, on December 23, 2021, better having
22 heard the date is postponed. Do you know, from your review of
23 documents, what she's referring to?

24 MR. MONTELEONI: Objection.

25 THE COURT: I'll allow that.

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1 A. No.

2 Q. Do you see that it's in response to the question, how is he
3 feeling?

4 MR. MONTELEONI: Objection.

5 THE COURT: Sustained.

6 BY MR. WEITZMAN:

7 Q. Do you see that it follows after Fred Daibes's question,
8 how is he feeling? Do you see that, sir?9 A. It follows in the chart, but I couldn't tell you if there's
10 anything in between.11 Q. OK. In your review of documents, did you learn that about
12 nine days earlier, on December 14, 2021, Senator Menendez fell
13 in the Senate and seriously injured his shoulder?

14 MR. MONTELEONI: Objection.

15 THE COURT: Sustained.

16 Ladies and gentlemen, you know unanswered questions
17 are not evidence.

18 BY MR. WEITZMAN:

19 Q. Sir, do you recall reviewing documents regarding a shoulder
20 injury that Senator Menendez had?

21 THE COURT: I'll allow that.

22 A. I don't recall.

23 Q. OK. Well, you do recall seeing entries about a chair, a
24 recliner, is that correct?

25 A. Yes. Do you have an understanding, based on your review of

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Van Wie - Cross

1 those documents, that that recliner was to help the senator
2 sleep following a shoulder surgery?

3 THE COURT: Sustained.

4 BY MR. WEITZMAN:

5 Q. Did you see documents --

6 THE COURT: Do you have an understanding from the
7 documents as to what the purpose of the recliner was? Yes, no
8 or I don't know.

9 THE WITNESS: If I could review the chart?

10 MR. WEITZMAN: Sure. If we can go to the next page.

11 Q. Do you see on line 214, there's a reference to, how is the
12 shoulder, is he sleeping, let me know if I can get him a
13 recliner, it helped me sleep. Do you see that?

14 THE COURT: The question is simply do you see those
15 words on line 214?

16 THE WITNESS: Yes, I see those words.

17 BY MR. WEITZMAN:

18 Q. Just to be clear, there's no reference on your chart to an
19 injury that the senator suffered regarding his shoulder, right?

20 MR. MONTELEONI: Objection.

21 THE COURT: Sustained for the reasons set forth above.

22 BY MR. WEITZMAN:

23 Q. OK. Do you know whether the senator, based on your review
24 of documents, had a surgery, shoulder surgery on December 31,
25 2021?

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1 THE COURT: Do you know one way or the other, sir?

2 THE WITNESS: No.

3 MR. WEITZMAN: Let's put up Government Exhibit 102-2,
4 which this refers to.

5 MR. MONTELEONI: For the record, that's D102-2.

6 MR. WEITZMAN: D102-2. Thank you.

7 Q. This is the first message we looked at earlier -- that's
8 great, you both need a good relaxing night, enjoy, how is he
9 feeling -- correct?

10 A. Correct.

11 Q. And if we can scroll down, there's the, better having heard
12 the date is postponed, he is fixated on it. Do you see that?

13 A. I see it, yes.

14 Q. On your chart, that you reviewed, this follows close in
15 time to reference to the postponement of Daibes's trial, isn't
16 that correct?

17 THE WITNESS: If we could go back to the chart?

18 MR. WEITZMAN: Sure.

19 Can we go to lines 211 to 213.

20 A. Yes, it was the same day.

21 Q. Same day.

22 Sir, in your review of documents, are you aware of whether
23 the senator was looking to postpone his shoulder surgery?

24 THE COURT: Sustained.

25 BY MR. WEITZMAN:

06kWmen3

Van Wie - Cross

1 Q. Did you review documents and communications about a
2 postponement of the senator's shoulder surgery?

3 THE COURT: I'll allow that.

4 A. No.

5 Q. Did you review documents and communications in reviewing --

6 THE COURT: In other words, you're not aware of any
7 documents that you reviewed that concerned a postponement of
8 the shoulder surgery. Is that correct?

9 THE WITNESS: That's correct. In reviewing for the
10 chart --

11 THE COURT: OK.

12 THE WITNESS: -- I don't recall seeing any documents
13 to that effect.

14 THE COURT: OK.

15 MR. WEITZMAN: If we can go back up to Government
16 Exhibit -- actually, withdrawn.

17 Q. Are you aware, sir -- well, let me ask it this way.

18 In December 2021, there were still some of the Covid
19 variants, to your knowledge, correct?

20 THE COURT: I'll allow it, if he knows.

21 Do you know that in the New York metropolitan area
22 there was Covid? I take it there's Covid now, to your
23 knowledge, is that right?

24 THE WITNESS: I --

25 THE COURT: The jury knows that.

06kWmen3

Van Wie - Cross

1 Go ahead. Next question.

2 BY MR. WEITZMAN:

3 Q. Have you seen communications in your review of the
4 underlying exhibits where the senator wanted to schedule a
5 surgery on December 31, 2021, in order to avoid exposure
6 because there would be fewer people in the hospital?

7 THE COURT: Sustained.

8 Again, ladies and gentlemen, remember that there's no
9 evidence when there are unanswered questions.

10 Stick to the chart.

11 MR. WEITZMAN: Can we go back to Government Exhibit
12 D102-2. And do a split screen. I'm sorry. And can we put up
13 1304 as well, back to lines 211 through 215.

14 Can we put up 211 through 215. OK. Why don't we put
15 up 214 and 215 then and skip 213, because we did that already.

16 Q. In line 214, Fred Daibes responds to Nadine: Good, I don't
17 want him to be upset over it. This is not his fault. He was
18 amazing in all he did. He is an amazing friend and as loyal as
19 they come. How is the shoulder? He is sleeping? Let me know
20 if I can get him a recliner and help him sleep.

21 We talked about that a moment ago, right?

22 A. Yes.

23 MR. WEITZMAN: Can we go, in the underlying exhibit,
24 to the next message.

25 Q. On December 25, 2021, Nadine Menendez responds: Merry

06kWmen3

Van Wie - Cross

1 Christmas. Just drove to the Armenian church down the street
2 in Tenafly and prayed. I hope you feel better very soon.

3 Do you see that?

4 A. Yes.

5 Q. That message is not on your chart, right?

6 A. I don't believe so, no.

7 Q. OK. And in your review of documents on this chart,
8 underlying this chart, did you see documents that Mr. Daibes
9 himself was suffering from Covid at this very time frame?

10 MR. MONTELEONI: Objection.

11 THE COURT: Sustained.

12 BY MR. WEITZMAN:

13 Q. Sir, did you see any documents about Mr. Daibes suffering
14 from Covid in or about December 2021, based on your review of
15 the underlying communications?

16 THE COURT: I will allow that.

17 A. I don't believe so.

18 Q. OK. Did you see messages about the senator trying to help
19 Mr. Daibes get into a particular hospital?

20 THE COURT: Sustained.

21 BY MR. WEITZMAN:

22 Q. Daibes responds, if you go to the next message in the
23 government exhibit, Daibes responds, is in your exhibit, and it
24 says: Thank you, my sister. I'm fine. Talk to SueSue and get
25 Bob the chair especially when he comes home from hospital.

06kWmen3

Van Wie - Cross

1 Merry Christmas.

2 Do you see that?

3 A. Yes.

4 Q. Does this reflect your recollection that you did see
5 messages about Bob being in the hospital?

6 MR. MONTELEONI: Objection.

7 THE COURT: Does it? Yes, no or I don't know.

8 A. I don't know if he was in the hospital at this moment or if
9 he ever went in.

10 Q. OK. Fair enough. Do you know who SueSue is?

11 A. No.

12 Q. If we can go to row 216, the very next row in Government
13 Exhibit 1304, Nadine Menendez says: The recliner arrived,
14 correct. I will get some sleep tonight and thank you very,
15 very much again in the morning. It moves the seat all the way
16 up so it's easy for him to get up without putting pressure on
17 the right arm. Thank you. If you need anything dropped off so
18 you don't have to leave the house, let me know, I will gladly
19 do it.

20 Do you see that?

21 A. Yes.

22 (Continued on next page)

06K5men4

van Wie - Cross

1 BY MR. WEITZMAN: (Continuing)

2 Q. Do you see the reference to Suesue not having to leave the
3 house. Do you see that?

4 MR. MONTELEONI: Objection.

5 THE COURT: Sustained.

6 You see it says: So you don't have to leave the
7 house. Do you see that?

8 A. Yes.

9 Q. Are you aware, sir, that during the pandemic, when people
10 had COVID, they were quarantining in 2021?

11 THE COURT: Sustained. Stick to the chart, sir.

12 Q. Now, Nadine references the chair arriving; correct?

13 THE COURT: What's your question.

14 MR. WEITZMAN: Yes. Can you put up Government Exhibit
15 B226, which is a different exhibit than the one we were looking
16 at?

17 Q. Sir, this is a text chain between Nadine and someone named
18 Suesue. Do you recall reviewing this?

19 A. Yes.

20 MR. WEITZMAN: And if you can link that in, Mr. Kelly?
21 Let's focus on the first page on this message, it is page 49 of
22 the document.

23 Q. Second message says: Choukran the recliner has arrived.
24 Do you see that?

25 A. Yes.

O6K5men4

van Wie - Cross

1 Q. Now this is the only message that is included on your
2 chart, sent or received by Suesue. Do you recall that?

3 A. I believe that's accurate.

4 MR. WEITZMAN: If we can go to page 51.

5 Q. Top message from Nadine, Nadine tells Suesue: You are an
6 Angel. Bob has been sleeping through the night every night
7 because of your chair. It made a hundred percent difference
8 thank you so much, Habibti.

9 A. I see the text message, yes.

10 Q. That message isn't on your chart, right?

11 THE COURT: Is that a question?

12 MR. WEITZMAN: Yes.

13 THE COURT: Is that text message on your chart, sir?

14 THE WITNESS: I would have to look at December 31st to
15 verify.

16 MR. WEITZMAN: Let's put up the chart and show them
17 December 31st.

18 A. Yes, that's correct.

19 Q. Now let's look at the next two messages in this chain from
20 Suesue to Nadine, the first message says: Happy New Year
21 Habibdi. My pleasure.

22 And the next message on the chain says: That chair
23 has saved so many people in our family.

24 Do you see that?

25 A. Yes.

O6K5men4

van Wie - Cross

1 Q. Again, these messages were not included on your chart -- we
2 can scroll from January 1st, 2022 -- correct?

3 A. That's correct.

4 Q. Based on your review of these messages, do you have an
5 understanding that Suesue sent over a used recliner?

6 MR. MONTELEONI: Objection.

7 THE COURT: Based on the chart are you able to say
8 that?

9 THE WITNESS: No.

10 BY MR. WEITZMAN:

11 Q. Did you review any records showing when the recliner was
12 purchased?

13 A. No.

14 Q. We can just put up the chart.

15 We have been talking some about the Daibes case, I would
16 like to also talk about the real estate entries regarding the
17 Heritage Advisors. Do you recall the chart and those entries?

18 MR. MONTELEONI: Objection.

19 Q. Sir, do you know what Heritage Advisors is?

20 A. Only from reading the chart, yes.

21 Q. What is your understanding, based on your review of the
22 chart?

23 MR. MONTELEONI: Objection.

24 THE COURT: I will allow it, if he has an
25 understanding.

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van Wie - Cross

1 THE WITNESS: That they entered into an agreement with
2 Fred Daibes to make an investment.

3 BY MR. WEITZMAN:

4 Q. And, do you understand the relationship based on the
5 documents you reviewed between Heritage Advisors and a man
6 named Sheikh al Thani?

7 MR. MARK: Objection.

8 THE COURT: I will allow it if he has an understanding
9 from the documents. He may know or he may not. He may have an
10 understanding, he may not.

11 THE WITNESS: I would have to review some of those
12 documents to see what they say.

13 THE COURT: I take it any such understanding would be
14 simply from the documents; correct?

15 THE WITNESS: Yes.

16 THE COURT: You have no other reason to know anything
17 about them; is that correct?

18 THE WITNESS: That's correct.

19 BY MR. WEITZMAN:

20 Q. Do you recognize the name al Thani as part of the royal
21 family in Qatar? Have you heard that name before?

22 THE COURT: Well, those are two questions.

23 MR. WEITZMAN: Fair enough.

24 Q. Have you heard that the royal family in Qatar has the name
25 al Thani?

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van Wie - Cross

1 A. I would have to review the source documents to verify.

2 Q. But you don't have any independent knowledge of any of
3 that; right?

4 A. No.

5 Q. And you don't know how large the al Thani family is in
6 Qatar?

7 MR. MONTELEONI: Objection.

8 THE COURT: Sustained.

9 Q. Based on your knowledge.

10 THE COURT: Is there anything in the documents
11 indicating the size of the Al Thani family in Qatar?

12 THE WITNESS: No.

13 BY MR. WEITZMAN:

14 Q. As part of your work preparing for this summary chart, did
15 the government provide you any notes of an interview that they
16 conducted of --

17 MR. MONTELEONI: Objection.

18 MR. WEITZMAN: I didn't finish my question.

19 THE COURT: Yes.

20 Q. Of a man shamed Shaun Doherty?

21 THE COURT: Sustained.

22 Q. Sir, when you testified, began your testimony, you were
23 asked whether you had any involvement in investigating Senator
24 Menendez. Do you recall that?

25 A. Yes.

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van Wie - Cross

1 Q. You said that you helped the squad, and I quote, with a few
2 tasks in the investigation. Do you recall that?

3 A. I don't believe those are my words but I did adopt them,
4 yes. I said yes.

5 Q. Right. He asked you: Did you help the squad with a few
6 tasks and investigations? And you said yes.

7 THE COURT: Mr. Weitzman is referring to
8 Mr. Monteleoni.

9 MR. WEITZMAN: Yes. Sorry. He, as in Mr. Monteleoni.
10 What tasks did you help the FBI squad during the
11 investigation?

12 MR. MONTELEONI: Objection.

13 THE COURT: I will allow it.

14 THE WITNESS: I assisted on two interviews of two
15 individuals.

16 BY MR. WEITZMAN:

17 Q. Do you recall who those interviews were with?

18 A. One, his last name was Critchley.

19 Q. OK.

20 A. And another I believe was Khorozian.

21 Q. Say the second name?

22 A. Khorozian.

23 Q. Khorozian.

24 You did not participate in an interview of Shaun Doherty,
25 correct?

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van Wie - Cross

1 MR. MONTELEONI: Objection.

2 THE COURT: Are you objecting?

3 MR. MONTELEONI: Yes.

4 THE COURT: Sustained.

5 Q. Did you participate in any interview of counsel for Sheikh
6 al Thani?

7 MR. MONTELEONI: Objection.

8 THE COURT: Sustained.

9 Q. Did anybody tell you while you were assisting the FBI squad
10 that was investigating Senator Menendez that there were other
11 interviews of individuals in this case?

12 MR. MONTELEONI: Objection.

13 THE COURT: Sustained.

14 Q. Were you informed at any point as to the identity of others
15 who were interviewed by the FBI and the U.S. Attorney's office
16 in this investigation?

17 MR. MONTELEONI: Objection.

18 THE COURT: Sustained.

19 Q. Now if we can go to row 99 on the chart? This is a message
20 that was included dated June 18, 2021, in which Shaun Doherty
21 says: My advice is the meeting with Fred should not take place
22 unless it is on a more discrete venue.

23 Do you see that?

24 A. Yes.

25 Q. Now this is a Heritage employee Shaun Doherty. Do you have

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van Wie - Cross

1 that understanding?

2 MR. MONTELEONI: Objection.

3 THE COURT: Do you know who Shaun Doherty is from the
4 document?

5 THE WITNESS: From the documents, I believe he is
6 associated with Heritage Advisors.

7 Q. From the documents that you see his title is chief
8 operating officer of Heritage?

9 A. I don't recall that specifically.

10 Q. And that message, this message about having a discrete
11 venue is on June 18, 2021?; correct?

12 A. That's correct.

13 Q. Let's go to row 114.

14 On June 30th, Sheikh al Thani e-mails Fred Daibes with a cc
15 to Shaun Doherty; correct?

16 A. That's correct.

17 Q. And he says: Thank you for the opportunity to view today.
18 It was nice to meet you and I look forward to speaking again
19 soon as we progress with our projects. I am copying Shaun who
20 will be main contact in our London office.

21 June 30th is about 12 days after that June 18 message,
22 right? Less than two weeks?

23 A. Yes.

24 Q. And you have seen no documents, sir, suggesting that the
25 meeting, any meeting between al Thani and Fred Daibes, was in a

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van Wie - Cross

1 discrete venue, did you?

2 MR. MONTELEONI: Objection.

3 THE COURT: Sustained.

4 Q. Did you see documents as to where the location of the
5 meeting between Sheikh al Thani and Mr. Daibes was?

6 A. I don't recall.

7 Q. Let's look at the cited document here, Government Exhibit D
8 308. Would you look at the top e-mail and do you recognize
9 Sultan al Thani to be Sheikh al Thani, the same individual I
10 referred to?

11 A. Yes.

12 Q. In the top e-mail from Fred Daibes to Sultan al Thani he
13 says: Thank you for coming to visit. It was truly a pleasure
14 to get to spend time with you and show you around Edgewater.

15 Do you see that?

16 A. I see that, yes.

17 Q. Do you know where Edgewater is?

18 A. I know there is one in New Jersey.

19 Q. Any idea, based on reviewing these messages, where they --
20 whether they met in a discrete venue in Edgewater?

21 MR. MONTELEONI: Objection.

22 THE COURT: Sustained.

23 Q. Let's go back to Government Exhibit 1304 and if we can go
24 to row 188. Now, this shows a November 3, 2021 WhatsApp call
25 that lasted three minutes and five seconds between Sheikh

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van Wie - Cross

1 al Thani and Fred Daibes; correct?

2 A. Correct.

3 Q. And it cites the Government Exhibit D209; correct?

4 A. That's correct.

5 Q. You looked at that document?

6 A. Yes.

7 MR. WEITZMAN: Can we put that document up, just in a
8 side by side for him?

9 Q. This is the log on which you relied for that communication;
10 is that correct?

11 A. Yes.

12 Q. I will come back to this in a moment.

13 Now I would like to go to 1304, lines 164, 165. Do you see
14 line 164 involves a forward or a WhatsApp message from Fred
15 Daibes dated September 29, 2021?

16 A. Yes.

17 Q. And he sends to Senator Menendez the title from the
18 Congress.gov website of a resolution expressing appreciation
19 for the State of Qatar, correct?

20 A. That's correct.

21 Q. Just to be clear, that resolution, based on your review of
22 the document, was not sponsored by Senator Menendez; correct?

23 THE COURT: Sustained.

24 Q. Sir, if we look at the document can -- we zoom in on the
25 Congress.gov website?

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van Wie - Cross

1 MR. MONTELEONI: Your Honor, can we have a side bar if
2 we are going into this territory?

3 MR. RICHENTHAL: Yes.

4 THE COURT: How much longer do you have, sir?

5 MR. WEITZMAN: I'm going to have considerably a lot
6 longer, your Honor. I'm happy to take this up after.

7 THE COURT: All right.

8 MR. WEITZMAN: Why don't we put that down. If we can
9 still go to the entry but I will deal with the website in a
10 moment.

11 Go back to that entry?

12 BY MR. WEITZMAN:

13 Q. The title of the resolution is: A resolution expressing
14 appreciation for the State of Qatar's efforts to assist the
15 United States during Operation allies Refuge.

16 Do you see that?

17 A. Yes.

18 Q. And are you aware from your review of the documents that
19 Operation Allies Refuge was America's effort to get Allies out
20 of Afghanistan after the United States left Afghanistan?

21 MR. MONTELEONI: Objection.

22 THE COURT: Sustained.

23 Q. Sir, do you know what Operation Allies Refuge is, based on
24 your review of the documents?

25 A. No.

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van Wie - Cross

1 Q. Do you know if it had anything to do with Afghanistan?

2 MR. MONTELEONI: Objection.

3 THE COURT: Do you know anything about what that
4 operation was?

5 THE WITNESS: No.

6 Q. Do you know anything about why this resolution was
7 sponsored -- forget why the resolution -- what the resolution
8 says about the reasons why the sponsors, whomever they were,
9 were appreciating the State of Qatar's efforts?

10 MR. MONTELEONI: Objection.

11 THE COURT: Do you know anything about what the
12 resolution says, sir? Yes or no.

13 THE WITNESS: No. I only read for the purposes of
14 verifying for accuracy of the chart.

15 Q. And you do see that on -- you do see that it references
16 Senator 2 in the Congress.gov website?

17 A. If you can blow it up a little larger?

18 Q. Yes. Do you see that?

19 A. Yes.

20 Q. And you were in court when the judge instructed that
21 Senator 2 is not Senator Menendez, correct?

22 A. Yes, I recall that.

23 MR. WEITZMAN: Now, if we turn to row 120 -- or, can
24 we stay on that?

25 Q. By the way, did you see any communication, any exchange

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van Wie - Cross

1 from Fred Daibes to Robert Menendez explaining why he forwarded
2 this to Robert Menendez?

3 MR. MONTELEONI: Objection?

4 THE COURT: In the document.

5 MR. WEITZMAN: In the document.

6 THE COURT: Do you see anything in the documents in
7 that regard?

8 THE WITNESS: I don't recall seeing that.

9 BY MR. WEITZMAN:

10 Q. And was there any content, any words from Fred Daibes to
11 Robert Menendez other than the words, the WhatsApp with the
12 Congress.gov website?

13 MR. MONTELEONI: Objection.

14 THE COURT: I'm not sure I understand.

15 Q. This message, did it contain anything else other than
16 what's reflected here on this line?

17 A. I would have to look at the exhibit to verify that.

18 MR. WEITZMAN: Can we go to Government Exhibit A104-4
19 and go to the top? Sorry that's the wrong exhibit, next page.
20 Another assist. Thank you, Mr. Monteleoni.

21 Q. Let's go to the bottom. He just forwards the title of the
22 Senate resolution with no commentary. Is that fair to say,
23 sir?

24 MR. MONTELEONI: Objection, and rule of completeness
25 with the upper text.

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van Wie - Cross

1 THE COURT: Deal with it.

2 Q. There is no commentary sir, right?

3 A. On this one I see only a link.

4 Q. Let's go to the message above. Again, another message from
5 Fred Daibes, you don't see any commentary from Fred Daibes
6 about this; correct?

7 A. Correct. I just see just a link.

8 Q. And if you zoom out let's go up one page so that it is next
9 in time, you don't see any response from Senator Menendez to
10 those two messages; correct?

11 MR. MONTELEONI: Objection to time frame of what is on
12 the screen.

13 Q. Well, let's look at the two messages again with the Senate
14 resolution. Do you see any response from Senator Menendez to
15 either of the messages from Fred Daibes?

16 A. It looks like these are sent at the same time.

17 Q. Do you see any response from Senator Menendez to those
18 messages, whenever they were sent?

19 A. To these two messages?

20 Q. Correct?

21 A. I would have to see below because they were both sent at
22 10:16:55.

23 MR. WEITZMAN: Let's go below then. Can you zoom out,
24 go below, let's go above?

25 A. Between the 10:16 and 10:17 there were no other messages.

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van Wie - Cross

1 Q. Thank you, sir.

2 MR. MONTELEONI: Objection to the date that is on
3 these messages, these are chronologically --

4 Q. Go to the next one. This is it, this is the last page.
5 Anything -- you don't see any response; correct? There is no
6 response to anything on the Chart either, right?

7 MR. MONTELEONI: Objection.

8 Q. Let's put up Government Exhibit 1304, can we go to line
9 164? This is the message, let's go to the next line, 165, you
10 don't see a response from Senator Menendez to Fred in response
11 to the Senate resolution, correct?

12 MR. MONTELEONI: Objection.

13 THE COURT: Do you, on the chart, see a response to
14 the message sent by Daibes to Menendez?

15 THE WITNESS: There is no response on the chart.

16 BY MR. WEITZMAN:

17 Q. Now I would like to talk about some of the press releases
18 that are on the chart, let's turn to row 120 on Government
19 Exhibit 1304. Do you see that Senator Menendez, on August 2,
20 2021, at 3:26 p.m., sent full text of press release with title:
21 Chairman Menendez applauds Qatari's government's \$100 million
22 contribution for humanitarian assistance for Yemen. He sends
23 that to Fred Daibes.

24 A. Yes.

25 Q. Let's look at the press release, Government Exhibit.

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van Wie - Cross

1 A104-2 -- I'm sorry, that's not the release. We don't need to
2 pull up Government Exhibit A104, that's a WhatsApp
3 .Do you look at this press release

4 THE COURT: Did you look at GX A104-2?

5 A. I looked at that exhibit.

6 Q. That exhibit doesn't include the press release, right?

7 MR. MONTELEONI: Objection.

8 Q. Let's put up Government Exhibit A104-2. Do you see, if we
9 zoom in, do you see it copies the press release? I see it.

10 Correct?

11 MR. MONTELEONI: Objection.

12 THE COURT: No. Can you say whether or not that is
13 the press release of what is on the screen?

14 THE WITNESS: I don't know if that is the full press
15 release. I only review what was necessary to verify the
16 accuracy of the line that references this exhibit.

17 BY MR. WEITZMAN:

18 Q. Do you see the first paragraph states: U.S. Senator Bob
19 Menendez D.N.J., chairman of the Senate Foreign Relations
20 Committee, released the following statement expressing support
21 for the Qatari government's recent contribution of an
22 additional \$100 million towards humanitarian operations in
23 Yemen to help alleviate the humanitarian crisis in the country.

24 A. Yes.

25 Q. Do you see that?

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van Wie - Cross

1 Now, if we go back to the chart on row 117, Government
2 Exhibit 1304, 117, you would agree with me -- actually, let me
3 withdraw that.

4 On July 24, this is one week before that August 2, press
5 release -- sorry -- this is a screenshot of Representative
6 Meeks tweeting a thank you to Qatar. Do you see that?

7 A. Yes.

8 Q. And in the screen shots of that tweet, Congressman Meeks
9 thanks Qatar for its contribution to "provide relief for the
10 worst humanitarian crisis in the world."

11 Do you see that?

12 A. Yes.

13 Q. Fair to say that Senator Menendez wasn't the only one who
14 was commenting about Qatar's hundred million donation?

15 MR. MONTELEONI: Objection.

16 THE COURT: Sustained.

17 Q. Do you know who Congressman Meeks is, sir?

18 A. No.

19 Q. Are you aware, based on your review of the documents, that
20 he was the chairman of the House Foreign Affairs Committee?

21 MR. MONTELEONI: Objection.

22 THE COURT: If he doesn't know who he is. But can you
23 answer that, sir?

24 THE WITNESS: I don't know.

25 THE COURT: Why don't you find a logical time to break

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van Wie - Cross

1 and I will give the jury its mid-afternoon break, sir.

2 MR. WEITZMAN: This is a good time.

3 THE COURT: Ladies and gentlemen, 15 minutes.

4 (Continued on next page)

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van Wie - Cross

1 (Jury not present)

2 THE COURT: You may step down, sir.

3 MR. WEITZMAN: I think there was a question that I was
4 about to ask.

5 THE COURT: I thought we are done with 390.

6 MR. WEITZMAN: I'm not sure we are done. There is a
7 question that I would like to ask but they have an issue.

8 THE COURT: What is it?

9 MR. WEITZMAN: The question, your Honor, would be:
10 Based on the documents you reviewed, you have not seen any
11 documents reflecting any involvement by Robert Menendez in the
12 drafting, editing, or sponsorship of this resolution?

13 THE COURT: Sustained.

14 (Recess)

15 THE COURT: I will inform the Jury that with the
16 consent of the parties, we are taking a witness out of order
17 still on the government's case.

18 MR. RICHENTHAL: Yes, your Honor.

19 THE COURT: How long is direct going to be.

20 MR. RICHENTHAL: 10 minutes, maybe 15.

21 THE COURT: Do we know if there is going to be any
22 cross?

23 MR. WEITZMAN: Yes, your Honor. Probably no longer
24 than that. Hopefully shorter.

25 MR. LUSTBERG: Nothing from us.

06K5men4

van Wie - Cross

1 MR. DE CASTRO: Nothing.

2 THE COURT: Let's keep it short.

3 How much longer do you have, Mr. Weitzman? Not on
4 this witness.

5 MR. WEITZMAN: I am guessing we will not conclude
6 today but I will do my best.

7 THE COURT: Will we come close?

8 MR. WEITZMAN: Yes.

9 THE COURT: And there is a possibility, right?

10 MR. WEITZMAN: Yes.

11 THE COURT: Good. I am trying to make sure everybody
12 stays efficient. You can understand that.

13 MR. WEITZMAN: I can, and I could.

14 THE COURT: The jury is maybe getting a bit weary.
15 Certainly all of you are.

16 Jury entering.

17 (Continued on next page)

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van Wie - Cross

1 (Jury present)

2 THE COURT: You may be seated.

3 Ladies and gentlemen of the jury, you can see
4 Mr. Van Wie is not on the stand. That would be an amazing
5 transformation.

6 What I am going to tell you is not unusual. For
7 scheduling purposes, because of the availability of witnesses,
8 the parties have agreed that this witness can be taken out of
9 turn. He is a witness still on the government's case but we
10 are going to interrupt Mr. Van Wie's testimony for rather short
11 testimony by this witness, and then we will go back to
12 Mr. Van Wie. It is simply a matter of trying to expedite
13 things and for the convenience of the witnesses and the
14 parties.

15 Sir, if you would rise, my deputy will address you.

16 THE DEPUTY CLERK: Please raise your right hand.

17 GEOFFREY MEARNS,

18 called as a witness by the Government,

19 having been duly sworn, testified as follows:

20 THE DEPUTY CLERK: Please state your full name and
21 spell your name for the record.

22 THE WITNESS: My name is Geoffrey Mearns.

23 G-O-E-F-F-R-E-Y, M-E-A-R-N-S.

24 THE COURT: Good afternoon, Mr. Mearns. If you would
25 please speak loudly, slowly, and clearly into the microphone.

06K5men4

Mearns - Direct

1 Your witness, Mr. Richenthal.

2 DIRECT EXAMINATION

3 BY MR. RICHENTHAL:

4 Q. Good afternoon, Mr. Mearns.

5 A. Good afternoon.

6 Q. What is your educational background?

7 A. I have my bachelors from University of Virginia.

8 Q. Where do you work?

9 A. I work at the United States Attorney's Office for the
10 Southern District of New York.

11 Q. For approximately how long have you worked there?

12 A. About three and a half years.

13 Q. What is your current role?

14 A. My current title is Special Assistant to the United States
15 Attorney.

16 Q. What is that, in short?

17 A. It's essentially a fancy way of saying I'm the U.S.
18 Attorney's assistant.

19 Q. What, if anything, did you do before that in the U.S.
20 Attorney's office?

21 A. I was a paralegal for about two and a half years.

22 Q. Directing your attention to September 11, 2023, were you
23 asked to assist with a presentation to be given to federal
24 prosecutors in the U.S. Attorney's office by then counsel to
25 Robert Menendez?

06K5men4

Mearns - Direct

1 A. Yes.

2 Q. What were you asked to do?

3 A. I was asked to sit in on the meeting and help set up some
4 tech.

5 Q. Was this meeting --

6 THE COURT: Some tech. What's some tech?

7 THE WITNESS: I set up a PowerPoint on the projector
8 screen so that everybody could see it.

9 THE COURT: "Tech" is technical; is that is it?

10 THE WITNESS: Yes.

11 THE COURT: All right.

12 BY MR. RICHENTHAL:

13 Q. Was this presentation before or after charges were brought
14 in this matter?

15 A. It was before.

16 Q. I think you said a PowerPoint?

17 A. Yes.

18 Q. For anyone who may not know, what is a PowerPoint?

19 A. It is essentially a presentation, a slide deck.

20 Q. What, specifically, were you asked to do with this
21 presentation or slide deck?22 A. I remember that the associate for Senator Menendez' team,
23 his computer wasn't working at the time, so they had me use my
24 computer; I plugged it in and projected onto the screen.

25 THE COURT: You mean Senator Menendez's former

06K5men4

Mearns - Direct

1 counsel's team?

2 THE WITNESS: Yes.

3 Q. How did you receive this presentation in order to put it on
4 your computer and project it on the screen?

5 A. They sent it to me via e-mail.

6 Q. Without identifying people by names, who attended the
7 presentation, to the best of your memory?

8 A. The prosecution team at our office, as well as the
9 executive staff of our office, as well as Senator Menendez'
10 former defense team.

11 Q. What is the executive staff?

12 A. It's the United States Attorney, his deputy, and the chief
13 of our criminal division.

14 MR. RICHENTHAL: If we will put on the screen just for
15 the witness, counsel and judge what's been marked for
16 identification as Government Exhibit 4A-3.

17 Q. Do you recognize this?

18 A. I do.

19 Q. What is this?

20 A. This is an excerpt of that PowerPoint presentation that
21 they sent me.

22 Q. You say an excerpt meaning this is not the complete
23 presentation?

24 A. It's not.

25 Q. Did you determine what parts would make it into this

O6K5men4

Mearns - Direct

1 exhibit?

2 A. I did not.

3 Q. Have you reviewed this exhibit before testifying this
4 afternoon?

5 A. I did.

6 Q. Are any parts blacked out or redacted?

7 A. Yes.

8 Q. Did you determine which parts would be blacked out or
9 redacted?

10 A. I did not.

11 MR. RICHENTHAL: The government offers Government
12 Exhibit 4A-3.

13 THE COURT: Hearing no objection.

14 MR. WEITZMAN: Your Honor, one moment?

15 (Counsel conferring)

16 MR. WEITZMAN: Thank you, your Honor.

17 MR. RICHENTHAL: The government offers 4A-3.

18 THE COURT: Hearing no objection, admitted.

19 (Government's Exhibit 4A-3 received in evidence)

20 MR. RICHENTHAL: If you can put that on the jury's
21 screen, please?

22 BY MR. RICHENTHAL:

23 Q. Mr. Mearns is that up on your screen?

24 A. Yes.

25 Q. Is this the cover of the presentation?

06K5men4

Mearns - Direct

1 A. Yes.

2 Q. Could you read it, please?

3 A. It says: Presentation to U.S. Attorney's office, Southern
4 District of New York, September 11, 2023.

5 THE COURT: Well, it also says above that: Senator
6 Robert Menendez. Is that correct, sir?

7 A. Yes.

8 Q. Let's now turn to the second page, that is the first page
9 in the exhibit after the cover page. Do you see that,
10 Mr. Mearns?

11 A. I do.

12 Q. Do you see what appears to be an asterisk next to several
13 items on this page?

14 A. I do.

15 Q. And are there words after the asterisk at the bottom of the
16 page?

17 A. Yes.

18 Q. Could you read what is after the asterisk at the bottom of
19 the page, please?

20 A. Yes. Indicates the senator was not aware of item until
21 this investigation began.

22 MR. RICHENTHAL: Let's now turn to the next page and
23 if we can blow that up as well? Thank you.

24 Q. Is there an asterisk on this page?

25 A. Yes.

06K5men4

Mearns - Direct

1 Q. Does it refer to an item on the page?

2 A. Yes.

3 Q. What item? Could you read it, please?

4 A. Yes. It refers to an item dated 4/20/19 through 12/2023,
5 monthly car payments to Ray Catena Motors.

6 Q. At the bottom of the page does the asterisk say what it
7 refers to?

8 A. Yes.

9 Q. Could you read that, please?

10 A. Indicates the senator was not aware of item until this
11 investigation began.

12 MR. RICHENTHAL: Can you go to the next page, please,
13 and blow it up?

14 Q. Could you read the second to last line beginning
15 December 2022?

16 A. Sure.

17 December 2022. The senator leams [sic] of mortgage payment
18 made by Hana.

19 THE COURT: You believe that says "leams"?

20 MR. RICHENTHAL: Can we blow that up, if it is
21 possible?

22 THE COURT: Well, it looks like it says "leams". Go
23 ahead.

24 Q. That's what it says. We can go back out.

25 Can you read the next line?

06K5men4

Mearns - Direct

1 A. After learning of the payment, senator gives Nadine funds
2 to repay the full amount.

3 Q. And could you read the final bullet on the page?

4 A. December 22, 2022, Nadine writes check to in trust for Wael
5 Hana in the amount of \$23,568.54 for full payment of Wael Hana
6 loan.

7 MR. RICHENTHAL: Can we go to the next page and blow
8 that up as well? Thank you.

9 Q. Mr. Mearns, could you do the same thing, that is could you
10 read the second to last bullet and then the last bullet?

11 A. Yes. December 2022, the senator learns [sic] of car
12 payments made by Uribe. After learning of the payments,
13 senator gives Nadine funds to repay the full amount.

14 Q. And could you now read the last bullet, please?

15 A. December 23, 2022, Nadine writes a check to José Uribe in
16 the amount of \$21,000 for personal loan.

17 Q. Mr. Mearns, I have asked you to read certain parts of this
18 presentation and there are other parts I have not asked you to
19 read. With respect to whether you have read or not read any
20 parts of the presentation that is in the exhibit, do you have
21 any personal knowledge of the accuracy, or lack thereof, of the
22 statements in this presentation?

23 A. I do not.

24 Q. Apart from setting up any meetings that may have been
25 requested by the U.S. Attorney, did you have any role in the

O6K5men4

Mearns - Cross

1 investigation or prosecution of this case?

2 A. I did not.

3 MR. RICHENTHAL: No further questions.

4 THE COURT: Thank you.

5 Is there any cross-examination? Mr. Weitzman.

6 CROSS-EXAMINATION

7 BY MR. WEITZMAN:

8 Q. Good afternoon, Mr. Mearns.

9 A. Good afternoon.

10 Q. So we are talking about the September 11 meeting; is that
11 correct?

12 A. Yes.

13 Q. And you say that it was attended by the prosecution team
14 and the executive team; correct?

15 A. Yes.

16 Q. There were -- do you recall that there were 10 federal
17 prosecutors there?

18 A. That sounds right.

19 Q. And in addition, the U.S. Attorney Damian Williams was
20 there; right?

21 A. Yes.

22 Q. His chief counsel was there, right?

23 A. Yes.

24 Q. His deputy U.S. Attorney was there?

25 A. Yes.

O6K5men4

Mearns - Cross

1 Q. The chief of the criminal division was there?

2 A. Yes.

3 Q. The head of the public corruption unit were there?

4 A. Yes.

5 Q. And then all the prosecutors you see here from the Southern
6 District of New York?

7 THE COURT: The people at the first table.

8 MR. WEITZMAN: From the Southern District of New York,
9 correct.

10 A. I don't believe all of them, I think the first four there.

11 Q. And then on the defense side, former counsel to Senator
12 Menendez was present with a couple of colleagues; is that
13 right?

14 A. Yes.

15 Q. Do you recall that the meeting lasted about an hour and a
16 half or two hours?

17 A. That sounds right.

18 Q. Senator Menendez wasn't there, right?

19 A. No.

20 Q. Just his legal team, right?

21 A. That's right.

22 Q. Now, are you aware that there was a prior meeting between
23 Senator Menendez' legal team and the government?

24 MR. RICHENTHAL: Objection. Scope, 401, 403 and
25 potentially calls for hearsay, your Honor.

06K5men4

Mearns - Cross

1 THE COURT: Scope. I'll sustain it on scope.

2 BY MR. WEITZMAN:

3 Q. Did you attend a prior meeting -- I'm not going to ask
4 about the contents.

5 MR. RICHENTHAL: Same objections, minus hearsay.

6 MR. WEITZMAN: Just whether he attended, not anything
7 further, your Honor.

8 THE COURT: Go ahead.

9 Q. Did you attend the prior meeting?

10 A. I did not.

11 MR. RICHENTHAL: Question assumes a fact.

12 THE COURT: Did you attend a prior meeting.

13 THE WITNESS: No, I did not.

14 BY MR. WEITZMAN:

15 Q. Now, do you recall that the prosecutors who attended, one
16 or more of them had note pads and were taking notes?

17 MR. RICHENTHAL: Objection, your Honor.

18 THE COURT: I will allow it.

19 THE WITNESS: I think so, yeah.

20 Q. You saw many prosecutors taking notes? How many?

21 MR. RICHENTHAL: Objection; 401, 403, and scope.

22 THE COURT: I will allow it.

23 Do you know how many were taking notes?

24 THE WITNESS: I don't remember. I don't think every
25 single person was taking notes, but.

06K5men4

Mearns - Cross

1 Q. Was there one person in particular who was asked for or
2 assigned to be the principal notetaker for that meeting?

3 MR. RICHENTHAL: Same objection.

4 Q. To your knowledge.

5 THE COURT: I will allow it, if he knows.

6 A. I don't recall.

7 Q. Do you recall whether Mr. Monteleoni was taking a lot of
8 notes?

9 MR. RICHENTHAL: Objection, your Honor.

10 THE COURT: Yes. Let's move on.

11 MR. WEITZMAN: Thank you.

12 BY MR. WEITZMAN:

13 Q. Did you review any notes from that meeting of the contents
14 of the meeting?

15 A. No.

16 Q. Do you recall, though, that Damein Williams opened the
17 meeting, made introductions, greeted everybody?

18 A. Yes.

19 Q. You recall that he said he's not made any decisions,
20 prosecutorial decisions yet?

21 THE COURT: Sustained.

22 Q. Do you recall what he said?

23 THE COURT: Sustained.

24 Q. The Government Exhibit 4A-3 is it a four or five-page
25 excerpt; is that right?

06K5men4

Mearns - Cross

1 A. I think that's right. Five, maybe six.

2 Q. Do you recall how long the PowerPoint was that was
3 presented?

4 MR. RICHENTHAL: Objection.

5 THE COURT: I will allow it.

6 How many pages, is that what you are asking?

7 MR. WEITZMAN: Yes.

8 THE COURT: Do you recall how many pages?

9 A. I don't remember, no.

10 Q. You did receive a copy of the full PowerPoint, right?

11 A. Yes.

12 Q. I'm going to ask to refresh your recollection with what's
13 been marked as Defendant's Exhibit 2100. Let me present it to
14 counsel.

15 THE COURT: Just so you know, sir, the jury knows
16 this, Mr. Weitzman can show you anything at all to assist in
17 refreshing your recollection. The issue is not what's on
18 whatever he is going to show that would, whether it may or may
19 not be true. The only issue is whether looking at that
20 document gives you a refreshed recollection in regard to how
21 many pages the full presentation was. It will either assist
22 you or it won't. So, does looking at whatever it is he is
23 showing you -- is this what you want him to see, sir.

24 MR. WEITZMAN: I'm going to scroll through the page,
25 your Honor.

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Mearns - Cross

1 THE COURT: OK.

2 MR. WEITZMAN: If we can scroll through the pages,
3 Mr. Kelly? Just so that you can recognize what this is, sir,
4 keep scrolling quickly all the way to the end. That's it.

5 THE COURT: Does that refresh your recollection in
6 regards to how many pages the presentation was?

7 THE WITNESS: Yes.

8 BY MR. WEITZMAN:

9 Q. How many page was the presentation?

10 A. It was 44 pages.

11 Q. Do you recall that the presentation covered a range of
12 topics beyond the four pages that you testified about on
13 direct?

14 MR. RICHENTHAL: Scope.

15 THE COURT: Sustained.

16 Q. Sir, do you recall that there were other topics besides --
17 I'm not asking what the topics were -- other topics besides the
18 ones referenced in the four pages?

19 THE COURT: Sustained.

20 Q. Sir, do you recall that the -- did you take notes during
21 this presentation?

22 A. I did not.

23 Q. Did you pay attention during the presentation?

24 A. Yes.

25 Q. Was one of the reasons you were paying attention because

O6K5men4

Mearns - Cross

1 you were assisting the U.S. Attorney's office with potential
2 press issues?

3 MR. RICHENTHAL: Objection.

4 THE COURT: Sustained.

5 Q. Why were you paying attention during the meeting?

6 MR. RICHENTHAL: Objection.

7 THE COURT: I will allow it.

8 THE WITNESS: I was paying attention for two primary
9 reasons: One to make sure that the presentation was working,
10 if they needed me to fix anything; and the second was personal
11 interest by, you know, I'm young and the point of doing my job,
12 like one of the benefits of my job is learning about how the
13 office works.

14 BY MR. WEITZMAN:

15 Q. Were you paying attention, in part, because you would be
16 involved in planning for the future including a press
17 conference?

18 THE COURT: Sustained.

19 Q. Did you know that there was a plan for a press conference
20 at that meeting?

21 THE COURT: Sustained.

22 Q. In a meeting on June 19, 2024, did you tell the government
23 that you were helping plan for a press conference?

24 THE COURT: Sustained.

25 Q. Do you recall, as you were paying attention to the lawyer

06K5men4

Mearns - Cross

1 who represented Senator Menendez at the time, was he doing the
2 principal speaking during the presentation?

3 A. Yes.

4 Q. Now, as to the four pages that you testified about, do you
5 recall what he said during those four pages?

6 THE COURT: Sustained.

7 Q. Do you recall whether he was reading the PowerPoint or
8 extemporizing?

9 MR. RICHENTHAL: Objection, including vague. Same
10 objections as before, plus vague.

11 THE COURT: Sustained.

12 MR. WEITZMAN: Your Honor, can we have a brief side
13 bar?

14 THE COURT: No. We have been over the scope on this
15 previously.

16 MR. WEITZMAN: This is the scope, this is the four
17 pages, your Honor. I'm asking about the very four pages that
18 they had him testify about.

19 THE COURT: Proceed.

20 BY MR. WEITZMAN:

21 Q. Do you recall whether the lawyers --

22 THE COURT: You know what? I will allow this.

23 MR. WEITZMAN: OK. Thank you, your Honor.

24 THE COURT: Do you recall whether Senator Menendez'
25 former lawyer was simply reading what was on the screen or was

06K5men4

Mearns - Cross

1 he speaking words that weren't on the screen?

2 THE WITNESS: He wasn't just reading the PowerPoint,
3 so additional things.

4 BY MR. WEITZMAN:

5 Q. Do you recall whether he was reading from a script or
6 extemporizing?

7 MR. RICHENTHAL: Objection.

8 THE COURT: Sustained.

9 Q. Do you recall whether he was reading from a script?

10 A. I don't.

11 Q. Do you know whether he had notes? Do you recall whether he
12 had notes?

13 MR. RICHENTHAL: Objection.

14 THE COURT: I will allow it.

15 A. I don't know. I think he may have -- someone may have had
16 a computer but I'm not exactly sure.

17 Q. When he was speaking, was he speaking in an animated,
18 impassioned way?

19 THE COURT: Like this? No. Sustained.

20 Q. Did he mention that he was still reviewing documents and
21 evidence?

22 THE COURT: Sustained.

23 Q. Do you recall that whether he said the following words, in
24 sum or substance, Senator Menendez asked me to tell you X?

25 THE COURT: Sustained.

06K5men4

Mearns - Cross

1 Q. Is it correct to say that when he was discussing the four
2 pages or so that you testified about on direct, he never said
3 that he is relaying a message from Senator Menendez?

4 THE COURT: Sustained.

5 Q. At no point in time during his presentation regarding these
6 four pages, or anything else, did the lawyer ask that this
7 presentation be provided to the grand jury?

8 THE COURT: Sustained.

9 MR. WEITZMAN: Your Honor, I'm sorry. Can we have a
10 side bar, please?

11 THE COURT: Yes.

12 (Continued next page)

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Mearns - Cross

1 (At sidebar)

2 MR. WEITZMAN: Your Honor, the government's charge is
3 obstruction of justice.

4 THE COURT: Yes.

5 MR. WEITZMAN: They put in this document, and as an
6 element of the charge, they need to prove that there was a
7 corrupt intent by Senator Menendez to disrupt or obstruct a
8 grand jury investigation. Whether or not there was any
9 intention for this to go before the grand jury -- and I
10 understand they did not -- is part of our defense.

11 Under *United States v. Schwarz*, we're entitled to
12 defend whether there was any statement as to whether this was
13 intended to go to the grand jury. I don't understand how we
14 can deprived of that ability to defend. Nor can we be deprived
15 of the ability to ask him about what he recalls being said. He
16 says he paid attention during those pages of the presentation.
17 Frankly, I think we should be permitted to go beyond that,
18 because the context of the entire presentation is what's
19 relevant, which is did they have a corrupt intent, or were they
20 disclosing information to the government that was truthful.
21 Whether they made an error here or there isn't the point, and
22 so we have to put all of this in context. And they proffered a
23 witness who has some recollection of events, but we're being
24 deprived of the ability to inquire.

25 THE COURT: What is it that you want to ask him?

06kWmen5

Mearns - Cross

1 MR. WEITZMAN: I want to ask him about what he recalls
2 Abbe Lowell, the lawyer, saying on those pages. I want to ask
3 him whether there was any statement about whether this should
4 go in front of the grand jury, or was he trying to influence
5 the prosecutor's decisions.

6 Influencing a prosecutor's decision is not an
7 obstruction of justice, under *United States v. Schwarz*. It has
8 to obstruct the grand jury investigation.

9 MR. RICHENTHAL: As your Honor knows, we are agents of
10 the grand jury. The grand jury is the investigating body and
11 the charging body in this case in particular. There's a whole
12 set of procedures and rules that govern that, none of which the
13 jury knows. Mr. Mearns simply presented what the presentation
14 says. If no more evidence comes in, I expect that Mr.
15 Weitzman, Mr. Fee or one of their colleagues may say in
16 summation, ladies and gentlemen, there's an absence of evidence
17 the presentation influenced the grand jury. If that's an
18 appropriate argument, then make it. That's entirely separate
19 from suggesting somehow Mr. Lowell, who obviously knew there
20 was a grand jury proceeding, didn't understand that the
21 statements he made to the entire leadership of the U.S.
22 Attorney's Office might influence decisions about what we --

23 THE COURT: Slower, slower.

24 MR. RICHENTHAL: There's a difference between arguing
25 about the absence of evidence and attempting to suggest that if

06kWmen5

Mearns - Cross

1 Mr. Lowell did not say affirmatively is this going to the grand
2 jury that somehow that means it wasn't. I think everyone
3 standing here understands Abbe Lowell understood at the time
4 the presentation to the entire senior leadership of the U.S.
5 Attorney's Office as to whether to seek an indictment of a
6 sitting senator would be obtained via a grand jury.

7 MR. WEITZMAN: Your Honor, the Second Circuit, in
8 *United States v. Schwarz*, which is the Abner Louima case,
9 reversed convictions on this very issue because information
10 provided by the police officer, one of the police officers to
11 the investigating prosecutors and officials, was there was no
12 evidence that he knew it was going to go before the grand jury.
13 We're entitled to inquire as to whether there were statements
14 about whether this was intended to go before the grand jury --

15 THE COURT: Well, I would have liked a heads-up on
16 this and would have liked the *Schwarz* case that you're
17 referring me to.

18 MR. RICHENTHAL: I can also respond briefly that it is
19 correct that there needs to be knowledge or an intent to
20 influence the grand jury, at least in this context, but I'm not
21 talking about that as a legal matter. I'm talking about
22 whether the jury should be allowed to speculate that if Mr.
23 Lowell did not affirmatively say that, that that somehow bears
24 on that. Everyone here understands the grand jury process,
25 understands the role of defense counsel making a presentation.

06kWmen5

Mearns - Cross

1 There's a 403 problem with what Mr. Weitzman is
2 attempting to suggest.

3 THE COURT: What's the 403 problem?

4 MR. RICHENTHAL: Your Honor, if the idea is that
5 absent a lawyer saying affirmatively to the entire leadership
6 of the U.S. Attorney's Office, which is on the verge of making
7 a decision whether to seek an indictment, are you going to put
8 this in front of the grand jury, it means that there's no
9 intent by the client, that would require us, I think, to
10 explain to the petit jury -- that is, this jury -- all of that
11 process; that is, indictments are before the grand jury.

12 THE COURT: Sir, I think that's right. I think the
13 presence or absence of what Lowell said -- in other words,
14 whether he said are you going to present this to the grand
15 jury, as I understand the process, he's unlikely to do that
16 because he, as Mr. Richenthal says, he knows what the procedure
17 is, but I think it would be unfair for you to argue, assuming
18 he didn't say that, to this jury that there was no intent to
19 pass it on to the grand jury.

20 MR. WEITZMAN: I'm not sure I agree with that.

21 THE COURT: That simply wouldn't be true, correct?
22 Just because he didn't say are you going to send this to the
23 grand jury when, in fact, he knows what the procedure is
24 doesn't suggest that there was a lack of intent by the
25 government to send it to the grand jury.

06kWmen5

Mearns - Cross

1 MR. WEITZMAN: Well, they can elicit from any witness,
2 they can show what's been put before the grand jury. I suspect
3 this was not put before the grand jury.

4 The way this works is we try, defense lawyers try to
5 influence the prosecutor's decisions, not the grand jury's
6 decisions. And so that's what this is.

7 THE COURT: That's true.

8 MR. WEITZMAN: They have the burden to show that there
9 was a corrupt intent to influence and interfere and obstruct
10 the grand jury process, which is not what was happening here.
11 The grand jury wasn't in the room. No FBI agents were in the
12 room.

13 THE COURT: But how does whether Lowell said, do you
14 intend to put this before the grand jury or not, impact on
15 that?

16 MR. WEITZMAN: Because it shows whether there was an
17 intention to obstruct the grand jury. He wasn't submitting
18 this to put it before the grand jury.

19 THE COURT: Wait. Bit by bit.

20 OK. Go ahead. He wasn't. That's right. He was
21 submitting it to influence the U.S. Attorney.

22 MR. WEITZMAN: Correct.

23 THE COURT: Go ahead.

24 MR. WEITZMAN: And the U.S. Attorney could believe or
25 disbelieve it, but it's not being obstructionist. That was my

06kWmen5

Mearns - Cross

1 point.

2 THE COURT: But you can make that argument to this
3 jury.4 MR. WEITZMAN: Not without the factual record that Mr.
5 Lowell never asked to send these documents to the grand jury.

6 THE COURT: I'm sorry.

7 MR. RICHENTHAL: I was just going to say Mr. Weitzman
8 just elided something that's critical here. We don't have to
9 present the false statements to the grand jury to make out an
10 obstruction case. The charge is to endeavor to obstruct the
11 grand jury investigation. It was self-evident that a
12 presentation to the senior leadership of the United States
13 Attorney's Office --

14 THE COURT: Slow down.

15 MR. RICHENTHAL: It was self-evident that a
16 presentation to the senior leadership of the United States
17 Attorney's Office specifically regarding whether to seek an
18 indictment of the person the lawyer is representing is an
19 effort to influence the outcome of the grand jury process.

20 Mr. Weitzman is entitled --

21 THE COURT: All right. That's a legal argument that
22 you can make to this jury.

23 Go ahead.

24 MR. RICHENTHAL: Yes, sir.

25 And Mr. Weitzman could argue the opposite; that is,

06kWmen5

Mearns - Cross

1 ladies and gentlemen, there's insufficient evidence of that
2 because the lawyer did not say affirmatively please share this
3 with the grand jury.

4 THE COURT: There's no evidence that he said that,
5 correct?

6 MR. RICHENTHAL: Correct. The absence of evidence,
7 that is.

8 What we're dealing with now is not the legal issue of
9 what is or is not a permissible argument. What we're dealing
10 with now is will the jury be aided -- that is, if relevant --
11 or not sufficiently aided under Rule 403 by the question
12 Mr. Weitzman wants to ask. Our position is that question the
13 lay jury will misapprehend the meaning and understanding of
14 because it does not understand that we, as the United States
15 Attorney's Office, act for the grand jury. We gather evidence
16 for the grand jury. We literally can only indict through the
17 grand jury, and if the presentation to influence our decision
18 whether to go to the grand jury, when to go to the grand jury,
19 what to seek from the grand jury is the presentation we're
20 talking about. But all of those factors, which the lawyers
21 here know, the jury does not know. And I don't think
22 Mr. Mearns necessarily knows, and it's not an appropriate line
23 of examination to suggest to the petit jury that because
24 there's an absence of that statement by Abbe David Lowell, who
25 absolutely understood everything I just said, the petit jury

06kWmen5

Mearns - Cross

1 should conclude this was not intended to influence that
2 process.

3 MR. WEITZMAN: Your Honor, two points.

4 The first is use of the words that it's "self-evident"
5 that there was an intention, that Abbe Lowell did intend, those
6 are factual determinations not for Mr. Richenthal to make but
7 for the jury to make. And he's agreeing that we can make the
8 argument about the absence of evidence, but saying that I
9 somehow cannot highlight the factual issue through a witness
10 who can confirm the absence of evidence, that's inconsistent.
11 If I can argue it to the jury, I should be permitted to elicit
12 that testimony, that factual statement, from the same witness.
13 They can't just say it's a strict liability offense,
14 self-evident there was an effort to obstruct the grand jury.

15 THE COURT: What's the question you want to ask him?

16 MR. WEITZMAN: There's a series of questions. I'd
17 like to ask him about what was said during this presentation.
18 The fact that there's a PowerPoint doesn't mean that it was
19 said. Either the witness recalls what was said or he doesn't
20 recall, and if he doesn't recall what was said, we have our
21 arguments as to whether this was actually articulated, or maybe
22 Abbe Lowell said something entirely inconsistent or corrected
23 something that was wrong in the PowerPoint.

24 How do they get past the hurdle here? How am I
25 deprived of inquiring from a witness who was a percipient

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Mearns - Cross

1 witness to the very presentation that they are saying is an
2 obstruction of justice as to what was actually said to the
3 prosecutors? I'm being deprived of due process rights to
4 present a defense on the very obstruction charge that they're
5 pursuing.

6 MR. RICHENTHAL: I think the hyperbole is neither
7 helpful nor warranted. There are many ways in which Mr.
8 Weitzman, if he wishes, could seek to present what he's talking
9 about, although I think there's a hearsay problem with a
10 substantial portion of it, if not all of it. The key way is he
11 could call Mr. Lowell. This is beyond the scope, at a minimum,
12 but in addition to beyond the scope, there's a hearsay problem.
13 There's a rule of completeness problem.

14 We submitted a letter to your Honor on this very
15 point. The defense didn't respond to the letter. They didn't
16 submit an alternative presentation. They didn't submit this
17 theory to you. There are multiple things Mr. Weitzman is
18 raising that are all legally and factually wrong. The point he
19 started with is whether he can argue about whether Mr. Lowell
20 made a statement about the grand jury. The point I was making
21 is the record, if Mr. Mearns will leave the stand, would be,
22 you, ladies and gentlemen of the petit jury, did not hear any
23 such statement, and therefore, you should fail to find that the
24 government has proven an intent to obstruct the grand jury
25 investigation. He can make the argument right now.

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Mearns - Cross

1 What I'm talking about is whether eliciting that
2 statement games the jury's comprehension sufficiently to
3 survive Rule 403. Our position is it does not, because there
4 are a series of factors and processes involving presentations
5 like this, which the jury does not understand.

6 THE COURT: What is your hearsay point?

7 MR. RICHENTHAL: My hearsay point as to what Mr.
8 Lowell said beyond these statements is very simple, and it's in
9 our letter. They're not entitled to put in, in any way, any
10 out-of-court statement for the truth of the assertion. There
11 is a limited exception to that, called the rule of
12 completeness. It is extraordinarily limited. It requires that
13 the material that otherwise would be barred is essential to
14 make the material that was presented comprehensible.

15 It requires that the material that would otherwise be
16 barred be essential to make the material that was admitted
17 comprehensible, and the cases were cited in the letter we
18 submitted to the Court.

19 The defense did not attempt in any way, writing or
20 orally, to present an alternative version of this presentation.
21 So at the last minute, they now want to ask Mr. Mearns other
22 subjects. They presumably believe those subjects are helpful
23 to their client, or they wouldn't be asking about them. They
24 are not permitted to elicit out-of-court statements to prove
25 the truth of those subjects.

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Mearns - Cross

1 Also, I want to make a very fundamental point.

2 Mr. Mearns has -- and this is not disputed -- presented a
3 written document given to the United States Attorney's Office.
4 They want to shift to a different issue, the oral statements
5 outside the written document. We have not elicited anything --
6 literally not one word -- about the oral statements outside the
7 written document. We could; it's not hearsay as to us. We
8 have not done so, so at a minimum, it's beyond the scope.
9 They're not deprived of anything. They can call someone if
10 they wish, but they have a hearsay problem.

11 MR. WEITZMAN: Your Honor, two things:

12 The first is I'm not offering the statements for the
13 truth of the matter asserted. I'm offering them for state of
14 mind.

15 The second thing is at a certain point in time, the
16 answer to our confrontation clause rights is not you can't
17 confront the witness who's here, you're forced to call your own
18 witness. That's not the way it works in criminal law. We
19 can't be forced to call any witnesses. We're entitled to
20 confront the government's witnesses.

21 THE COURT: Yes, right. That's correct.

22 MR. RICHENTHAL: Your Honor, may I respond to that?

23 THE COURT: No.

24 What I'm going to do is, first of all, do you have a
25 citation on the Louima case?

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Mearns - Cross

1 MR. WEITZMAN: I will get it for you, your Honor.

2 THE COURT: OK.

3 MR. WEITZMAN: I apologize.

4 THE COURT: All right. I'm going to sustain the
5 objection on 403 grounds, that it's starting to enter into an
6 area that will be confusing to this jury, and the probative
7 value is not substantially outweighed by the danger of delay
8 and confusing this jury and, in fact, misleading it. It's also
9 indeed beyond the scope. I'm going to read that case. That's
10 my decision.

11 Thank you.

12 Given that, how much longer do you have?

13 MR. WEITZMAN: Well, I think that there's a second
14 part, which is can I inquire about his recollection of what was
15 said by Mr. Lowell when presenting these slides? If he has no
16 recollection, he has no recollection.

17 MR. RICHENTHAL: So, as Mr. Weitzman knows, and did
18 not just say, he understands Mr. Mearns's recollection because
19 he was given 3500 on this very matter. That aside, that is
20 beyond the scope of his direct. It is hearsay. It does not
21 fall within the rule of completeness. Again, he was not asked
22 literally even one word, at least by me, what was said orally.

23 THE COURT: It is beyond the scope, but go ahead.

24 MR. WEITZMAN: Your Honor, he was asked if he attended
25 the meeting. He was asked if he listened. He said that he did

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Mearns - Cross

1 listen.

2 Let me explain what I think could happen here, your
3 Honor. The percipient witnesses to this meeting are witnesses
4 to a supposed obstruction. Whether it means I call Damian
5 Williams or I call Mr. Mearns back, I'm entitled to ask
6 witnesses, not just who they want me to call, Abbe Lowell. I'm
7 entitled to ask witnesses what was said, and if that's the U.S.
8 Attorney, then it's going to be the U.S. Attorney or it will be
9 Paul Monteleoni, who has copious notes.

10 THE COURT: No, but what was said. What was said,
11 don't you have a hearsay problem?

12 MR. WEITZMAN: No, I'm not offering it for the truth.
13 I'm not offering it for the truth. I'm offering it as to
14 whether there was a corrupt intent to obstruct justice. That's
15 a state of mind. So if Mr. Monteleoni has 20 pages of notes,
16 is he going to be my witness?

17 MR. RICHENTHAL: I'm happy to respond to that as well.
18 Your Honor, again, they have multiple ways. He has
19 just named some new ways to seek, if they wish, to attempt,
20 from some witness, to elicit what was said. That's a separate
21 matter. It's the hearsay problem. There might be a *Touhy*
22 problem, all kinds of issues.

23 THE COURT: What he's saying is it's not for the
24 truth; it's simply for the fact that it was said.

25 MR. RICHENTHAL: Well, what he's trying to do is

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Mearns - Cross

1 elicit other statements in a meeting that the witness has not
2 testified about. At a minimum, again, it's beyond the scope.
3 And while I suppose, if it were true, that they're not offering
4 it for the truth within the hearsay, it still wouldn't be
5 appropriate for this jury to hear. Then the jury would have to
6 hear, what else what said in the presentation, opening more and
7 more and more.

8 THE COURT: You have my ruling. It's on 403 grounds.
9 I've already stated it for the record. I'll take a look at
10 that case.

11 MR. WEITZMAN: OK. Your Honor, I'm going to make my
12 record. I think that we're being deprived of the ability to
13 defend this charge as a result.

14 THE COURT: I understand, and I'll take a look at that
15 case.

16 MR. WEITZMAN: Thank you, your Honor.

17 MR. RICHENTHAL: Can I make one more point --

18 THE COURT: Yes.

19 MR. RICHENTHAL: -- on that point?

20 THE COURT: Mr. Weitzman.

21 Mr. Fee.

22 MR. RICHENTHAL: I wanted to make a point in light of
23 this continued hyperbole.

24 THE COURT: Well --

25 MR. RICHENTHAL: OK.

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Mearns - Cross

1 THE COURT: Go ahead. Try to keep it on the straight
2 and narrow.

3 MR. RICHENTHAL: There was a reference to state of
4 mind.

5 THE COURT: Mr. Fee is the expert at hyperbole, not
6 Mr. Weitzman.

7 MR. RICHENTHAL: The reference to the state of mind
8 that Mr. Weitzman just talked about, he was talking about Mr.
9 Lowell's state of mind. Mr. Lowell is not accused of having an
10 obstructive state of mind. Mr. Menendez is accused of having
11 an obstructive state of mind. So if the purpose of this is to
12 figure out whether Mr. Lowell had an obstructive state of mind,
13 that's also improper. The question is quite simple here.

14 THE COURT: That, I take it, is irrelevant.

15 MR. RICHENTHAL: In our judgment, whether Mr. Lowell
16 had an obstructive state of mind, we're not accusing him.

17 THE COURT: He's not charged with anything.

18 MR. RICHENTHAL: No, sir. In fact, I think we've even
19 said publicly, it's not for this jury, we don't believe that
20 Mr. Lowell did anything improper. Mr. Lowell was being an
21 advocate. That was his job.

22 So there's another 403 problem, which is they now seem
23 to be suggesting they want to have an inference to the jury if
24 Mr. Lowell didn't have an obstructive state of mind, then
25 Mr. Menendez didn't have an obstructive state of mind. That

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Mearns - Cross

1 introduces a whole other problem, which is the duty of lawyers
2 as zealous advocates for their clients, that Mr. Lowell was not
3 there as an objective arbiter of fact. He wasn't there as
4 simply someone to present his view. He was there -- he said
5 this in the meeting -- as an advocate; that is, to convince the
6 U.S. Attorney's Office to take or not take certain steps.
7 That's appropriate. It's an incredibly important role in our
8 system, but this jury doesn't understand how those
9 presentations work. So again, we have another 403 problem if
10 they're trying to explore Mr. Lowell's state of mind.

11 THE COURT: All right.

12 MR. WEITZMAN: Your Honor --

13 THE COURT: I think everyone has stated their record.

14 MR. WEITZMAN: Yes.

15 THE COURT: I would have appreciated, though, a
16 heads-up on this, including with the case, because clearly,
17 your cross is not going to be what their direct was, or less,
18 and I think you've certainly intimated that. I really would
19 have appreciated having advance notice that this would be an
20 issue.

21 MR. WEITZMAN: I understand, your Honor. I actually
22 am surprised that they won't let me -- they've objected to some
23 of these inquiries about the very pages that they're putting in
24 evidence. I would have thought that that is fair game, so I
25 didn't think that I needed to ask.

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Mearns - Cross

1 THE COURT: Let's go back.

2 Do you have the ECF number on the letter?

3 MR. RICHENTHAL: Not off the top of my head, but I can
4 pull it.

5 THE COURT: OK.

6 (Continued on next page)

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Mearns - Cross

1 (In open court)

2 THE COURT: You may continue.

3 MR. RICHENTHAL: Could we have a minute?

4 THE COURT: Oh, yes.

5 BY MR. WEITZMAN:

6 Q. Mr. Mearns, I apologize. I don't even remember where we
7 left off.

8 MR. RICHENTHAL: Your Honor, I'm sorry to do this.

9 Can we continue the sidebar briefly? I need to make a record
10 before this witness continues. I'm not doing this for
11 pleasure.

12 THE COURT: Sidebar.

13 I apologize, ladies and gentlemen.

14 (Continued on next page)

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Mearns - Cross

1 (At sidebar)

2 THE COURT: What was that? All of them.

3 MR. FEE: All of them, I'm old.

4 MR. RICHENTHAL: I appreciate your Honor's indulgence
5 and patience. I just wanted to make the following record.

6 While we don't think it's required, in an abundance of
7 caution to try to narrow these issues, I just advised
8 Mr. Weitzman at the podium if he wishes to ask Mr. Mearns
9 whether Mr. Mearns recalls Mr. Lowell making statements orally
10 that are inconsistent with the written statements that have
11 been introduced into evidence, we would not object to that
12 limited question. Mr. Weitzman declined to take me up on that
13 opportunity and simply said he's going to continue to examine
14 the witness. I just wanted to say we have made, we said we
15 would not object to that limited question, but we do not think
16 it's legally required.

17 THE COURT: All right.

18 What do you have left? Everyone's made their record.
19 What's left here?

20 MR. WEITZMAN: No. I think the issue is they realize
21 that they just went a bit too far in getting a ruling that
22 deprives me of an opportunity to inquire as to what was orally
23 said, and now they want to pigeonhole me to a single question,
24 even though they're acknowledging that there is some relevance.
25 This is not a fair way to confront witnesses who are putting in

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Mearns - Cross

1 evidence against your client.

2 MR. RICHENTHAL: I can respond to that.

3 The word "confrontation" has been used multiple times.
4 There's a lot of case law on what confrontation means.
5 Mr. Mearns can be confronted about everything he said. That's
6 not what we're talking about.

7 What we're talking about is can Mr. Mearns be --

8 THE COURT: He doesn't have to confront Mearns.

9 MR. RICHENTHAL: Correct, but my point is he has the
10 ability to do so. He's here. Mr. Mearns testified. We're
11 talking about something beyond the scope of direct. We're not
12 talking about confrontation.

13 What we're talking about is an evidentiary question.
14 I do not believe -- we do not believe that it is legally
15 required for the defense to be able to inquire about oral
16 statements separate from written statements. They're separate
17 in time. They're separate in scope. They're separate matters.
18 But to try to moot or narrow issues -- I'm sure the Court knows
19 this -- we sometimes don't object to things we find
20 objectionable. We try to think of a question that would let
21 the defense elicit whether, in fact, Mr. Lowell made oral
22 statements inconsistent with the written ones. And that's the
23 key issue that's joined here: are the written statements, to
24 use Mr. Weitzman's words, in context or were they not? Yes or
25 no.

06kWmen5

Mearns - Cross

1 Mr. Mearns, I think, may have a memory of that. I
2 will tell the Court I think his memory is not helpful to Mr.
3 Menendez, but Mr. Mearns can give his memory under oath right
4 now. What we're resisting is going beyond that issue, to other
5 things and other statements. That's totally improper.

6 We're trying to give the defense an opportunity,
7 although we don't think it's required, to ask what I think they
8 want to ask, did Mr. Lowell say something inconsistent with the
9 writing?

10 I will represent to the Court I think Mr. Mearns is
11 going to say no, but if Mr. Weitzman wants to ask the question,
12 he can ask the question. We will not object to that question.
13 The broader inquiry, this goes well beyond direct, problematic
14 hearsay issues and problematic 403 issues.

15 THE COURT: OK. Everyone's made their record.

16 Where are you going?

17 MR. WEITZMAN: I don't know that I'm going to ask that
18 question, because I should not let the prosecution dictate what
19 question I ask.

20 THE COURT: I understand.

21 MR. WEITZMAN: I'm going to have just two or three
22 more questions. I don't even know what they are.

23 THE COURT: What are they?

24 MR. WEITZMAN: They're going to be does he have a
25 specific recollection of whether Mr. Lowell was reciting what's

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Mearns - Cross

1 on the PowerPoint or what he said on those pages. That's it.

2 THE COURT: OK.

3 (Continued on next page)

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Mearns - Cross

1 (In open court)

2 THE COURT: Mr. Weitzman.

3 MR. WEITZMAN: Yes.

4 Q. Just to go back a bit, four pages from a 44-page
5 presentation correct; that's what you're testifying about --

6 A. Yes.

7 Q. -- Government Exhibit 483.

8 Do you have a specific recollection of what the former
9 counsel for Mr. Menendez said to the government on each of
10 these four pages?

11 A. I do not.

12 Q. The only thing, the only testimony you have to offer is the
13 PowerPoint, the words that are on the PowerPoint that are being
14 presented by the government, right?

15 A. I don't know what you mean by what I have to offer.

16 Q. OK. You don't have a recollection of whether Mr. Lowell
17 recited the words in the excerpt or said other words; you don't
18 have a recollection one way or another, do you?

19 A. I mean he certainly referenced the words on the page and
20 then said other things --

21 Q. OK.

22 A. -- as well.

23 Q. And you don't recall what those other things are?

24 A. No.

25 MR. WEITZMAN: Nothing further, your Honor.

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Mearns - Redirect

1 THE COURT: All right.

2 BY MR. RICHENTHAL:

3 Q. Mr. Mearns --

4 THE COURT: Wait. Wait.

5 MR. RICHENTHAL: Oh, I'm sorry.

6 THE COURT: We have other lawyers here.

7 MR. LUSTBERG: No questions, your Honor.

8 MR de CASTRO: No questions, your Honor.

9 MR. RICHENTHAL: I thought they'd already said that.

10 My apologies.

11 REDIRECT EXAMINATION

12 BY MR. RICHENTHAL:

13 Q. Mr. Mearns, do you recall being asked just now about
14 whether Mr. Lowell said other things?

15 A. Yes.

16 Q. With respect to the factual statements on the pages that
17 you talked about, do you recall Mr. Lowell saying anything
18 inconsistent factually --

19 MR. WEITZMAN: Objection, your Honor.

20 BY MR. RICHENTHAL:

21 Q. -- with those statements?

22 THE COURT: Just a moment. Sustained.

23 BY MR. RICHENTHAL:

24 Q. Do you recall Mr. Lowell making statements regarding the
25 factual statements -- let me try that better.

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Mearns - Redirect

1 Do you recall Mr. Lowell saying anything about the factual
2 statements on those pages?

3 A. I mean I remember him referencing those statements and
4 making those statements.

5 Q. You remember him making those statements?

6 A. Yes.

7 Q. Do you remember him making those statements and saying they
8 were not true?

9 MR. WEITZMAN: Objection, your Honor.

10 THE COURT: Sustained.

11 BY MR. RICHENTHAL:

12 Q. You said you remember him referencing those statements?

13 A. Yes.

14 Q. Do you remember him saying they were true or false?

15 MR. WEITZMAN: Objection.

16 THE COURT: Sustained.

17 BY MR. RICHENTHAL:

18 Q. Do you remember him saying whether they were accurate or
19 inaccurate?

20 MR. WEITZMAN: Objection.

21 THE COURT: Sustained.

22 MR. RICHENTHAL: No further questions.

23 THE COURT: All right. You may step down, sir.

24 You're excused.

25 (Witness excused)

06kWmen5

Van Wie - Cross

1 THE COURT: Ladies and gentlemen, we'll now have
2 Mr. Van Wie back, if the government will have Mr. Van Wie come
3 in.

4 PAUL VAN WIE, resumed.

5 THE COURT: Mr. Weitzman, you may continue with your
6 cross-examination of Mr. Van Wie.

7 MR. WEITZMAN: Yes. Thank you, your Honor.

8 CROSS-EXAMINATION CONTINUED

9 BY MR. WEITZMAN:

10 Q. Sir, the chart that is in evidence as Government Exhibit
11 1304 includes references to WhatsApp calls between Mr. Daibes
12 and Mr. Al Thani. Do you recall that?

13 A. If we could just --

14 MR. WEITZMAN: Sure. Go to Government Exhibit 1304,
15 row 188.

16 Q. Do you see that there's a reference to a November 3, 2021,
17 WhatsApp call?

18 A. Yes.

19 Q. Now, in this version of Government Exhibit 1304, there's a
20 citation to Government Exhibit D209. Do you see that?

21 A. Yes.

22 Q. Do you recall that there was a prior version of this chart
23 that referenced Government Exhibit D203?

24 A. I don't recall the exact citation.

25 (Indiscernible overlap)

06kWmen5

Van Wie - Cross

1 Q. Sorry. Apologies.

2 A. I don't recall the exact citation, but there were multiple
3 versions as they were being edited.

4 MR. WEITZMAN: Let's put up Government Exhibit D203
5 and see if you recognize the document.

6 Q. Just looking at this document, are you able to recognize
7 whether this is a document you reviewed?

8 A. Just looking at it, I can't recall. There were so many,
9 I --

10 Q. OK.

11 A. I can't off the top of my head.

12 MR. WEITZMAN: Let's put up Defense Exhibit 2035,
13 which is another version of Government Exhibit 1304, and if we
14 can go to row 188. This is for the witness only, row 188,
15 November 3, 2021.

16 Q. If you would take a look at that --

17 THE COURT: You're asking to look at 188 not on 1304
18 but on 2035, Defense Exhibit 2035?

19 MR. WEITZMAN: Yes.

20 THE COURT: OK.

21 BY MR. WEITZMAN:

22 Q. Does this refresh your recollection that an earlier version
23 of the chart that you reviewed cited Government Exhibit D203
24 for this WhatsApp call?

25 A. I can't recall exactly. Again, there were so many lines

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Van Wie - Cross

1 and versions as we were editing. I can't recall right now
2 exactly which version this was or if I -- I believe there was a
3 version, actually, I did review.

4 MR. WEITZMAN: Can we put up Government Exhibit D203,
5 in any event. We offer Government Exhibit D203. It may be in
6 evidence. We offer Government Exhibit D203.

7 MR. MONTELEONI: No objection.

8 THE COURT: Admitted.

9 (Government Exhibit D203 received in evidence)

10 BY MR. WEITZMAN:

11 Q. Sir, this document is a 19-page extraction report showing
12 WhatsApp calls between Sheikh Al Thani and Daibes. Do you
13 recognize that it references Al Thani and Daibes?

14 A. Yes.

15 Q. And the first call on this page is July 3, 2021, from
16 Daibes to Al Thani, correct?

17 A. It appears so, yes.

18 Q. It's actually what's called UTC time, right?

19 A. Yes.

20 Q. And do you recognize that as sometimes four or five hours
21 ahead, depending on the time of year?

22 A. Correct.

23 Q. So the call is actually late at night on July 2, Eastern
24 time, right?

25 A. Yes, I believe so.

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Van Wie - Cross

1 Q. And the next call is from Daibes to Mr. Al Thani, 15
2 minutes or so later, is that correct?

3 A. It appears that the previous call was 2 o'clock and some
4 change.

5 Q. OK.

6 A. Yes.

7 Q. If you scroll through these pages, there's a series of
8 calls, one after another after another, many calls between
9 Sheikh Al Thani and Mr. Daibes; do you see that as we're
10 scrolling through the pages?

11 A. Yes.

12 Q. Would it surprise you to learn that this exhibit reflects
13 106 calls or missed calls between the two of them?

14 MR. MONTELEONI: Objection.

15 THE COURT: Rephrase it.

16 BY MR. WEITZMAN:

17 Q. Are you aware, sir -- we can count them, but are you aware
18 that there are over a hundred calls or missed calls between
19 Fred Daibes and Sheikh Al Thani?

20 MR. MONTELEONI: Objection.

21 THE COURT: I'll allow that.

22 Do you know that?

23 THE WITNESS: No.

24 BY MR. WEITZMAN:

25 Q. OK. Would you agree with me that the chart, Defense

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Van Wie - Cross

1 Exhibit -- Government Exhibit 1304 does not reflect the number
2 of calls that are reflected in Government Exhibit -- sorry --

3 THE COURT: Defense Exhibit.

4 MR. WEITZMAN: Defense? No. This one is Government
5 Exhibit D203.

6 THE COURT: Go ahead.

7 BY MR. WEITZMAN:

8 Q. Would you agree with me that all the calls in D203 are not
9 reflected in your summary chart?

10 A. I think that's accurate. It doesn't reflect every single
11 call.

12 Q. OK. Now, the chart does include a few images of watches.
13 Do you recall that?

14 A. Yes.

15 MR. WEITZMAN: Can we put up lines 160 and 161. We
16 can do a shared screen. There we go. I want to focus on these
17 two images.

18 Q. These are messages from Fred Daibes at 10:16 a.m. with two
19 pictures of watches, correct?

20 A. Yes -- of computer monitors with watches on them.

21 MR. WEITZMAN: Correct.

22 Mr. Kelly, can you do both pages without excerpting
23 these two entries.

24 Q. You didn't see in your review of the documents Mr. Menendez
25 respond to either of these messages, correct?

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Van Wie - Cross

1 A. I'd have to scroll down a little bit on the chart to see if
2 it's on here. Again, I only verified the information that was
3 in this chart.

4 MR. WEITZMAN: Let's scroll down.

5 A. According to this chart, I don't see any messages in here.

6 Q. OK. And the message from Mr. Daibes to Mr. Menendez at
7 10:17 a.m. is, how about one of these, correct?

8 A. Yes.

9 Q. And again, no response from Senator Menendez to Mr. Daibes,
10 right?

11 MR. MONTELEONI: Objection.

12 A. No.

13 THE COURT: Is there any on -- all right. You've
14 answered.

15 BY MR. WEITZMAN:

16 Q. Not on this chart?

17 A. Not on this chart, no.

18 Q. And you've not seen any documents in your review of the
19 underlying documents regarding this chart that indicates
20 whether Mr. Daibes bought either of these watches, right?

21 A. Again, if it's not an item on this chart, then I wouldn't
22 have seen it to review it.

23 Q. OK. So nothing on this chart indicates that Mr. Daibes
24 bought either of these watches, right?

25 MR. MONTELEONI: Objection.

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1 THE COURT: There's nothing on the chart one way or
2 the other in that regard, is that correct?

3 THE WITNESS: Not that I'm aware of, no.

4 THE COURT: All right.

5 BY MR. WEITZMAN:

6 Q. In connection with the work that you did assisting the FBI
7 team with this investigation, are you aware that there was a
8 search of Senator Menendez's home?

9 A. Yes.

10 Q. And are you aware that no Patek Phillippe watch was found in
11 Senator Menendez's home?

12 THE COURT: Sustained.

13 Do you know?

14 BY MR. WEITZMAN:

15 Q. Do you know?

16 THE COURT: Do you know what was found in Senator
17 Menendez's home as a result of the search?

18 MR. MONTELEONI: I was not privy to that information,
19 no.

20 BY MR. WEITZMAN:

21 Q. You've not seen any documents in your review of the
22 documents supporting this chart that indicates that any Patek
23 Phillippe watch was found in Senator Menendez's home, correct?

24 THE COURT: Sustained as argumentative.

25 Have you seen any documents in your review of

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1 documents setting forth what, if anything, was found in Senator
2 Menendez's home as a result of the search?

3 THE WITNESS: No. I was not given any documents to
4 review.

5 BY MR. WEITZMAN:

6 Q. In your review of documents and assisting the FBI in the
7 limited ways you did in this case, have you seen documents that
8 show that Will Hana and Fred Daibes are collectors of fine,
9 luxury watches?

10 THE COURT: Sustained.

11 Did you see -- have you seen any documents that
12 reflect whether or not Mr. Hana or Mr. Daibes collect fine
13 watches?

14 THE WITNESS: No, I was not given any documents with
15 that information.

16 THE COURT: One way or the other, correct?

17 THE WITNESS: One way or the other, no.

18 THE COURT: All right.

19 BY MR. WEITZMAN:

20 Q. Now, we were talking a bit about some press statements from
21 Senator Menendez before the break. Do you recall that?

22 A. Yes.

23 Q. And we were talking about -- I think it was called the
24 Qatar's assistance in helping house Afghans seeking refuge
25 after the fall of Kabul. Do you recall that?

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Van Wie - Cross

1 THE COURT: I'm not quite sure that's it.

2 MR. WEITZMAN: OK. Your Honor, you're right.

3 Q. It was called operation something or other, but it was
4 Afghanis fleeing from Afghanistan. Do you recall that?

5 MR. MONTELEONI: Objection.

6 THE COURT: Why don't you give him the name of it.

7 BY MR. WEITZMAN:

8 Q. Operation Allies Refuge.

9 A. That sounds familiar, yes.

10 Q. OK. But you don't recall, you don't know what that is,
11 sir?

12 A. No.

13 Q. OK. There were other statements that Senator Menendez
14 issued regarding Qatar. Do you recall that?

15 MR. MONTELEONI: Objection.

16 MR. WEITZMAN: They are on your chart, I should say.

17 THE WITNESS: If we could take a look --

18 MR. WEITZMAN: Yes.

19 THE WITNESS: -- to refresh my recollection?

20 MR. WEITZMAN: Let me give you the page reference.

21 THE COURT: Do you know whether or not there were
22 other statements that Senator Menendez issued regarding Qatar,
23 and you've said on the chart, that is --

24 MR. WEITZMAN: Row 135.

25 Q. This is an August 20, 2021, press release titled Senator

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1 Menendez's statement on Qatar's efforts to help house Afghans
2 seeking refuge in the United States and includes the quote, I
3 am grateful to see our friends and allies in Qatar be moral
4 exemplars by accepting Afghans ultimately seeking safe haven in
5 the U.S. after being forced to escape for their lives. Do you
6 see that?

7 A. Yes, I do.

8 Q. Now, have you reviewed press releases and tweets from other
9 politicians who made similar statements to what Chairman
10 Menendez was making here?

11 THE COURT: Do you recall seeing any such statements
12 by other senators? Yes or no.

13 THE WITNESS: Other senators? I don't believe --

14 BY MR. WEITZMAN:

15 Q. What about congressman?

16 A. I believe -- I'm sorry. I believe in the chart there was
17 one from Representative Meeks.

18 Q. OK. Do you recall seeing -- do you recall seeing in your
19 review of the underlying documents statements from the
20 secretary of defense or secretary of state to the same effect?

21 MR. MONTELEONI: Objection.

22 THE COURT: I'll allow it.

23 Do you recall seeing any such document?

24 THE WITNESS: I don't recall.

25 BY MR. WEITZMAN:

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Van Wie - Cross

1 Q. What about members of the National Safety Council; do you
2 recall seeing that?

3 MR. MONTELEONI: Objection.

4 THE COURT: Overruled.

5 A. I don't recall.

6 Q. Do you recall seeing in your review of underlying documents
7 that many politicians, secretary of defense and others, were
8 traveling to Qatar around this time to thank them?

9 THE COURT: Sustained as to form.

10 BY MR. WEITZMAN:

11 Q. If you go to line 248 of this chart, this was a March 1,
12 2022, text message about Sheikh Sultan having a country home
13 outside of London and inviting you -- addressed to Senator
14 Menendez -- to spend a night there and do a little hunting. Do
15 you recall seeing that?

16 A. Yes, I see that.

17 THE COURT: Take a look at 248. Do you see 248?

18 THE WITNESS: Yes, I see that.

19 THE COURT: Next.

20 BY MR. WEITZMAN:

21 Q. As part of your involvement in reviewing the underlying
22 records, did you get access to Senator Menendez's travel logs,
23 communications and calendar entries?

24 THE COURT: Sustained.

25 BY MR. WEITZMAN:

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Van Wie - Cross

1 Q. Did you get access --

2 THE COURT: No. Don't use access. Were you shown.

3 BY MR. WEITZMAN:

4 Q. Were you shown, sir, some of Senator Menendez's email
5 communications?

6 THE COURT: You mean in general, was he shown email
7 communications from Senator Menendez?

8 MR. WEITZMAN: Yes.

9 A. If they're referenced in this chart, I did.

10 Q. OK. And did you see any calendar entries for Senator
11 Menendez?

12 A. If they're referenced in this chart, I did.

13 Q. What about travel logs?

14 A. If they're -- I believe there was two entries in here
15 regarding Nadine Menendez and his travel to Qatar, I believe.
16 It was a departure date and arrival date.

17 Q. Fair to see you've seen no documents that suggest or show
18 that Senator Menendez traveled to Sheikh Sultan's country home
19 outside of London?

20 THE COURT: Sustained.

21 MR. MONTELEONI: Objection.

22 THE COURT: Sustained. Argumentative.

23 BY MR. WEITZMAN:

24 Q. Sir, have you seen any records as to whether or not Senator
25 Menendez traveled to Sheikh Sultan Al Thani's country home

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1 outside of London in response to this invitation?

2 THE COURT: I'll allow it.

3 Have you seen it one way or the other?

4 THE WITNESS: No.

5 MR. WEITZMAN: Now, let's turn to lines 322 through
6 325. Can we zoom in on those.

7 Q. In line 323, there's a calendar entry that says Qatar,
8 right; you testified about that?

9 A. Yes.

10 Q. Then line 325 there's a picture of two individuals, right?

11 A. Yes.

12 Q. And the one on the left is the man named Ali Al Thawadi,
13 right?

14 A. Yes.

15 Q. And the one on the right is Senator Menendez, right?

16 A. Right.

17 Q. The description says, WhatsApp sends pictures of Ali Al
18 Thawadi with Sheikh Sultan bin Jassam Al Thani and another
19 male, and then it says and Ali Al Thawadi with Robert Menendez.
20 Fair to say there are two pictures that are sent in this
21 WhatsApp exchange, correct?

22 A. It appears so.

23 THE COURT: Do you see where it says sends pictures?

24 THE WITNESS: Yes.

25 THE COURT: Do you conclude from that that the

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1 reference was to more than one picture?

2 THE WITNESS: It appears so. It would be helpful if I
3 could see source documents to see if it --

4 MR. WEITZMAN: Let's do that.

5 Q. This line, though, only excerpts one photo, right?

6 A. That's correct, one photo.

7 MR. WEITZMAN: Let's put up the second photo,
8 Government Exhibit 4F-23, and can we look at the photos. This
9 is -- let's go to the next photo.

10 THE COURT: Are there two photos? OK.

11 BY MR. WEITZMAN:

12 Q. This is the photo that's actually excerpted in the chart,
13 right?

14 A. That's correct, yes.

15 Q. There's another photo attached, which we can -- I think
16 there's a different photo.

17 THE COURT: Wait. Were those two separate photos or
18 just a duplicate?

19 MR. WEITZMAN: That's just a duplicate on the screen.

20 Q. There's the image on the right --

21 MR. WEITZMAN: Can we just zoom in on that one,
22 Mr. Kelly.

23 Q. -- and the person on the left is Ali Al Thawadi. Do you
24 recognize that?

25 A. Yes.

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1 Q. Do you recognize the person on the right is Mr. Al Thani?
2 Do you recognize that?

3 A. I would have to see the exhibit that depicts his name with
4 the photo. I can't tell you off the top of my head.

5 Q. OK. What about the person in the middle; you described him
6 in the chart as an unknown male?

7 MR. MONTELEONI: Objection.

8 THE COURT: Wait.

9 Sir, can you identify the person on the right as
10 Sheikh Sultan bin Jassam Al Thani?

11 THE WITNESS: I saw his photo earlier. It's hard to
12 keep the names straight.

13 THE COURT: All right. I don't want to put words in
14 your mouth. You're not sure one way or the other?

15 THE WITNESS: That's correct. If I could see the
16 exhibit that I was shown earlier --

17 BY MR. WEITZMAN:

18 Q. I'd like to focus on the person in the middle. He was
19 described in the chart as an unknown male?

20 MR. MONTELEONI: Objection.

21 THE COURT: Yes. Sustained. Because he's uncertain
22 about the person on the right. Why don't you establish who
23 that is and then we can --

24 MR. WEITZMAN: Do we have the government's chart?

25 THE COURT: Or I think there's a picture. Why don't

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1 you just show the jury the picture.

2 MR. WEITZMAN: I don't know the exhibit number, your
3 Honor.

4 THE COURT: Yes.

5 MR. WEITZMAN: But I'm happy to hold up the chart.

6 THE COURT: Show it to the witness.

7 BY MR. WEITZMAN:

8 Q. Sir, does this look like the man in the photo --

9 A. Yes.

10 Q. -- pointing to Government Exhibit 2A-28?

11 A. Yes.

12 THE COURT: All right. Is that the man on the right?

13 THE WITNESS: It is, yes.

14 THE COURT: Do you know who the man in the middle is?

15 THE WITNESS: No.

16 THE COURT: OK.

17 BY MR. WEITZMAN:

18 Q. The man in the middle, in the chart, is described as an
19 unidentified or unknown male, correct?

20 MR. MONTELEONI: Objection.

21 THE COURT: Yes. Sustained.

22 Are you talking about line 325, where it describes him
23 as and another male?

24 MR. WEITZMAN: And another male.

25 Q. It doesn't identify him is my point, correct?

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1 A. That is correct.

2 Q. OK. Do you know who this man in the middle is?

3 A. No.

4 Q. Have you ever heard of a man named Jac Nasser?

5 MR. MONTELEONI: Objection.

6 THE COURT: I'll allow it.

7 Have you ever heard of Jac Nasser?

8 THE WITNESS: No.

9 BY MR. WEITZMAN:

10 Q. Do you know that there's a man named Jac Nasser who's
11 the --

12 THE COURT: He's never heard of Jac Nasser, sir.

13 MR. WEITZMAN: OK. Let's put up Defense Exhibit 2047
14 for identification for the witness alone. Split screen, yes,
15 please.

16 Q. Is the individual for identification in Defense Exhibit
17 2047 the same individual you see in the middle of these two
18 individuals, Al Thawadi and Al Thani, based on your visual
19 identification?

20 MR. MONTELEONI: Scope. Nonimpeachment. Relevance.

21 403.

22 THE COURT: I'll allow it.

23 Are you able to say whether or not that's the same
24 man?

25 THE WITNESS: They look similar. I couldn't tell you

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1 if they're the same person, though.

2 BY MR. WEITZMAN:

3 Q. You're having difficulty making that identification?

4 MR. MONTELEONI: Objection.

5 THE COURT: Yes. Sustained. He said: They look
6 similar. I couldn't tell you if they're the same person,
7 though.

8 BY MR. WEITZMAN:

9 Q. Sir, do you know that there is a Jac Nasser who is the
10 president, CEO, on the board of directors of Ford Motor
11 Company?

12 MR. MONTELEONI: Objection.

13 THE COURT: Sustained.

14 BY MR. WEITZMAN:

15 Q. Is there a reason, sir, why -- let me withdraw that.

16 Does the FBI have face recognition software?

17 MR. MONTELEONI: Objection.

18 THE COURT: Sustained. Beyond the scope.

19 BY MR. WEITZMAN:

20 Q. Sir, did you ask the prosecutors as you were verifying the
21 chart who's the man in the middle of the second photo?

22 MR. MONTELEONI: Objection.

23 THE COURT: I'll allow that.

24 A. No.

25 Q. Do you know how large -- how many business people were

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1 involved in this meeting where the photo of Senator Menendez
2 and Mr. Al Thawadi was taken?

3 THE COURT: You're talking about the photo in line
4 325.

5 MR. WEITZMAN: 325, correct.

6 MR. MONTELEONI: Objection.

7 THE COURT: I'll allow it.

8 A. No.

9 Q. Fair to say, though, based on your review of the two photos
10 we've now looked at, there were people other than Senator
11 Menendez and Mr. Al Thawadi and Al Thani present at that lunch,
12 based on your review of those two photos?

13 MR. MONTELEONI: Objection.

14 THE COURT: I'll allow it.

15 Look at those two photos. Can you tell that there
16 were more than those people there, from looking at those
17 photos, those two photos?

18 MR. WEITZMAN: Mr. Kelly, the two photos.

19 THE WITNESS: I have to assume that they were taken at
20 the same time. I'm not sure. Just counting the people that
21 were in these two photos, there's five people.

22 BY MR. WEITZMAN:

23 Q. OK. You don't know how many people were at whatever event
24 these photos concern, correct?

25 MR. MONTELEONI: Assumption of evidence.

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1 THE COURT: Event or events.

2 MR. WEITZMAN: Correct.

3 THE COURT: Let's move on.

4 MR. WEITZMAN: Event or events.

5 Q. If you turn to lines 331, and if we can just put up line,
6 just the chart with line 331, there's a reference to a May 23
7 email that involves a signed LOI. Do you see that?

8 A. Yes.

9 Q. Do you know what an LOI is?

10 A. Letter of intent --

11 Q. OK.

12 A. -- as it says later on.

13 Q. And the underlying document is Government Exhibit 4F-17,
14 right?

15 A. Yes.

16 MR. WEITZMAN: Let's pull up Government Exhibit 4F-17.

17 Now, if we can turn to the next page and then continue
18 to the next page after that.

19 Q. This is the letter of intent for the joint venture
20 development in Edgewater, New Jersey, right?

21 A. Yes.

22 Q. And you checked this document to confirm the accuracy of
23 the entry in the chart in line 331, right?

24 A. If I could go back to that line, but I believe it was to
25 verify that the quoted material matched, yes.

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1 MR. WEITZMAN: OK. Go back to the letter of intent,
2 please.

3 Q. Do you understand that this is a letter -- in the first
4 line, this letter of intent outlines the terms and conditions
5 upon which Heritage 115 Holdings LLC is prepared to enter into
6 a joint venture with Daibes Enterprises, correct?

7 A. That's what it says, yes.

8 Q. You would agree with me that the letter of intent, based on
9 this document, is not the final agreement; there's something
10 called a joint venture agreement, correct?

11 THE COURT: Are you able to say one way or the other
12 based on what was just read to you?

13 THE WITNESS: No.

14 MR. WEITZMAN: OK. If we can scroll down. Let's look
15 at contributions.

16 Q. Line 331 references a \$95 million contribution. Do you
17 recall that; and that's where this is from, this line, right?

18 A. I'm sorry. The line in 1304?

19 Q. Correct.

20 A. If we can go back to that, please? Sorry.

21 Q. There's a reference there, \$95 million investment, correct?

22 A. Yes.

23 Q. And Daibes Enterprises, and that's on this line,
24 contributions, right?

25 A. It's -- I believe it's a summary of kind of what was in the

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1 document itself. I'm not sure if it's from this specific line.

2 MR. WEITZMAN: OK. If we can go back into the
3 document, the letter of intent, and zoom in on the property
4 equity line.

5 Q. It says that the equity valuation of the property (the
6 property value) as of the closing is anticipated to be
7 approximately \$190 million free and clear of all indebtedness.
8 Do you see that?

9 A. Yes.

10 Q. The \$95 million investment, that's one half of \$190
11 million, which is the property value, right?

12 A. It is one half of \$190 million.

13 Q. OK. Do you know whether -- have you seen documents as to
14 whether Heritage actually made a \$95 million investment?

15 A. No.

16 Q. OK. Now, you read this letter of intent in confirming the
17 accuracy of the line entry?

18 A. I read that the -- the line entry was accurate as it
19 pertained to the source documents.

20 MR. WEITZMAN: Can we turn to page 4. Keep going.
21 There's a section I'm not finding at the moment.

22 Q. Oh. In the bottom, where it says letter of intent, it
23 says, notwithstanding anything in this LOI to the contrary
24 except the paragraphs entitled exclusivity, broker indemnity
25 and confidentiality, it is understood and agreed that neither

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1 Heritage nor Daibes shall have any binding obligation or
2 liability in connection with the transaction described herein
3 until such time, if ever, as the JV agreement has been
4 unconditionally executed and delivered by both parties. Do you
5 see that?

6 A. Yes.

7 Q. Do you understand the acronym JV agreement to refer to
8 joint venture agreement?

9 MR. MONTELEONI: Objection.

10 THE COURT: Do you have an understanding in that
11 regard one way or the other? Or let me ask it directly. Do
12 you know what JV stands for?

13 THE WITNESS: If it's defined above, I could give you
14 the answer. But otherwise, I would have to assume.

15 MR. WEITZMAN: OK. Let's go back a few pages.

16 Q. Do you see it says, JV agreement, upon execution of this
17 LOI, Heritage and Daibes shall promptly and in good faith
18 negotiate a mutually acceptable Delaware limited liability
19 company operating agreement titled JV agreement?

20 A. I see that, yes.

21 Q. OK. So do you have an understanding now that the JV
22 agreement is referencing a different agreement, an operating
23 agreement for the entity?

24 THE COURT: The LOI that he has in front of him.

25 MR. WEITZMAN: Correct.

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1 THE COURT: OK. Do you know, sir, one way or the
2 other?

3 THE WITNESS: I can only tell you from reading the
4 document that it refers to a -- an operating agreement.

5 MR. WEITZMAN: OK. And going back to your chart and
6 if we can go to that line where it references the LOI, which is
7 lines 331 -- no. I'm sorry. Zoom the whole thing out. And if
8 you can go to the next page too. OK.

9 Q. Nothing -- there are no entries after the May 23, 2022,
10 execution of the letter of intent that indicate whether a joint
11 venture agreement was signed, right?

12 A. Not on the chart, no.

13 Q. Or whether it was negotiated, right?

14 A. Not on the chart, no.

15 Q. And the letter of intent, based on what you just read,
16 that's a nonbinding letter of intent; you saw those words?

17 MR. MONTELEONI: Objection.

18 THE COURT: Did you see the words "nonbinding letter
19 of intent"?

20 THE WITNESS: I saw the words. I don't know the
21 context or how to interpret them, but they appear in the
22 document.

23 BY MR. WEITZMAN:

24 Q. OK. Fair to say that the chart doesn't tell the rest of
25 the story as to what happened after the letter of intent,

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1 right?

2 THE COURT: Sustained.

3 MR. WEITZMAN: Your Honor, I've reached, I think, the
4 5 o'clock hour. I have some more to do, though, and it's going
5 to be considerably more.

6 THE COURT: Considerably more.

7 MR. WEITZMAN: Half an hour, 40 minutes.

8 THE COURT: Half an hour. All right.

9 Ladies and gentlemen, let's end for the day. You have
10 had a full day of testimony, except for that sidebar, and those
11 things happen periodically. Enjoy the rest of the day. We are
12 not going to have court tomorrow because several of you have
13 graduations to attend. Enjoy the graduations. Enjoy the
14 weekend.15 Please all be here on Monday at 9:30. We can't begin
16 until all of you are here. I can't restate that often enough.17 Enjoy the weekend. Keep an open mind. You have not
18 heard all the testimony. Don't discuss this case amongst
19 yourselves or with anyone else. Don't read, listen to or watch
20 any news or social media that may be involved in this case.21 See you Monday at 9:30. Enjoy the weekend. And
22 everyone appreciates your attention, truly.

23 (Continued on next page)

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1 (Jury not present)

2 THE COURT: Please be seated.

3 You may step down, Mr. Van Wie.

4 (Witness not present)

5 THE COURT: We'll pick it up again on Monday at 9:30.

6 We're behind the projected schedule already, approximately a
7 half hour of continued cross, and we've got the other two
8 lawyers to do cross if they have any.

9 I take it Monday will be Copeland, Corizon, Hana.

10 Anyone else?

11 MR. MONTELEONI: Your Honor, we think that in light of
12 where we are with the schedule, we actually have to put a
13 different witness earlier because of travel issues. So we
14 think our next witness, after Special Agent Van Wie finishes,
15 will be Sarah Arkin. And after that, I think that we'll look
16 at the order, but it will likely be among those individuals you
17 just listed.

18 THE COURT: All right. And we may be able to get
19 somebody else in. I take it Arkin's not going to be that long.
20 She's the staffer, No. 1, right?

21 MR. MONTELEONI: She's one of the staffers that you
22 previously considered motions regarding. We think that her
23 testimony is going to be reasonably substantial, and we also
24 anticipate that defense counsel is likely to have
25 substantial --

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1 THE COURT: What's she going to be testifying to?
2 Other than, with the limitations that it was going to be
3 substantial, what's she going to testify to?

4 MR. MONTELEONI: There's not going to be substantial
5 testimony that implicates the speech or debate clause.

6 THE COURT: Well, that's what I was asking. I assume
7 there's going to be none.

8 MR. MONTELEONI: Right. Exactly, but she was involved
9 in the planning of the trip that eventually became a
10 congressional delegation, and a number of events happened on
11 the way to that. She had some particularly important
12 conversations with Senator Menendez about his posture relating
13 to Egypt, and she witnessed certain events and -- involving
14 Menendez's activities, not speech or debate activities but
15 relevant ones on the Senate Foreign Relations Committee.

16 THE COURT: Mr. Weitzman.

17 MR. WEITZMAN: I'm not sure what he's referring to,
18 somewhat ambiguously, about Senator Menendez's posture relating
19 to Egypt. But several conversations with Sarah Arkin, who was
20 a staffer on SFRC, and his posture related to Egypt concerns.
21 His holds and his positions, his official position, those
22 background conversations, education, and the back-and-forth
23 between SFRC staffer and Senator Menendez would be speech and
24 debate.

25 THE COURT: Wait just a moment. The background?

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1 MR. WEITZMAN: The conversations where he's doing fact
2 investigation, getting information from a staffer about his
3 legislative activities, which includes his holds, I don't know
4 whether that's what they're talking about, but to the extent
5 that is --

6 THE COURT: All right. Let's find out.

7 MR. RICHENTHAL: We've talked with the defense at
8 length about this. We're happy to do it again. Ms. Arkin is
9 expected to testify about conversations with Mr. Menendez
10 regarding his work as a senator, but not holds, not
11 legislation. We're steering far clear of that. We've made
12 very clear to the defense --

13 THE COURT: Not releasing of holds.

14 MR. RICHENTHAL: Sorry, your Honor?

15 THE COURT: Not release of holds and not placing of
16 holds.

17 MR. RICHENTHAL: Neither, no. Neither releasing or
18 placing.

19 THE COURT: Nor what else?

20 I'm sorry. I spoke over you. Not holds, not release
21 of holds, not what else?

22 MR. RICHENTHAL: What I said was not approving or
23 disapproving them either. We're not talking about his
24 positions on holds, but there were all kinds of conversations
25 regarding his meetings with foreign officials, his public

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1 statements with respect to Egypt in particular, whether
2 declining to make public statements with respect to Egypt in
3 particular. Those are all long understood to be fair game that
4 we've talked to the defense at length about. We're not
5 retreading ground. We're not touching holds.

6 THE COURT: All right. If there are going to be
7 issues, I want them teed up to me before 9:30 on Monday.

8 MR. WEITZMAN: Yes, and any conversations about
9 legislation as well. So, for instance, Eastern Mediterranean
10 act, whatever the name was, of that one as well as Senate
11 resolution 390 and Qatar. I think her conversations with
12 Senator Menendez about those matters are not fair game.

13 (Continued on next page)

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1 MR. RICHENTHAL: So we need to distinguish between
2 conversations on a subject matter, like Egypt, and
3 conversations about Acts, like laws.

4 THE COURT: Wait. Let's talk about Eastern
5 Mediterranean and S 390. Are you going to be asking her about
6 those?

7 MR. RICHENTHAL: We are going to ask Ms. Arkin what
8 she understands the Eastern Mediterranean Gas Forum to be.

9 THE COURT: That's all right.

10 MR. RICHENTHAL: This is obviously subject of
11 potential legislation. We are not asking Mr. Menendez'
12 position on legislation.

13 THE COURT: You can ask her what the gas forum is.

14 MR. RICHENTHAL: And also it places it in context,
15 that is, that there were a number of countries on the Eastern
16 Mediterranean or that had interest in the Eastern Mediterranean
17 that might benefit from this thing called the Eastern
18 Mediterranean gas forum. We are not asking her to opine on
19 Mr. Menendez' position on the bill, what he did on the bill.
20 Nothing of the sort.

21 THE COURT: Mr. Weitzman, it seems to me that that is
22 all OK.

23 MR. WEITZMAN: I will tell you, we have not discussed
24 Sara Arkin's testimony, to my knowledge. So we have seen 3500.
25 Some of that 3500 goes into legislative activity in the state.

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1 THE COURT: You have the day off tomorrow.

2 MR. WEITZMAN: Yes.

3 THE COURT: Talk to each other tonight or tomorrow.

4 If there are any issues, I need to know about them. So what
5 Mr. Richenthal has said so far, sounds to me like fair game.

6 MR. MARK: Your Honor, just for the record, I actually
7 had an hour-and-a-half-long conversation with Mr. Weitzman,
8 that's what led to our letter that was focused on staffer one
9 and the particular evidentiary rulings that your Honor issued.
10 Obviously, we can talk with Mr. Weitzman again about this, but
11 that was, as we detailed in our letter, that was an hour and a
12 half long conversation that we had related to staffer 1 who is
13 Sara Arkin.

14 MR. WEITZMAN: Your Honor?

15 THE COURT: Yes, don't have to debate that.

16 MR. WEITZMAN: I don't want to let a misimpression. I
17 wasn't suggesting that we had never spoken about the exhibits,
18 that was a conversation about her exhibits and I agree with
19 that. I'm not casting aspersions, your Honor. I'm really not.
20 I thought they were saying since then, but.

21 THE COURT: No. But my impression, sir, was, indeed,
22 you had not talked about Arkin with them. So that is just my
23 impression. There are no aspersions one way or the other.
24 Everyone is being a lawyer here.

25 What I want you to do is talk to each other tomorrow.

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If there are any evidentiary issues, because I really don't like the side bars and I think I should have been teed up, notified that there was going to be an issue so that we wouldn't have a lengthy side bar in front of this jury, but let me know if there are going to be any issues. It sounds like so far there shouldn't be, OK, and I have ruled on Arkin already.

Fine. What I want, it seems to me, that we have got to do whatever we can to be as efficient as we can so we can catch up to the projections consistent with everybody's ability and the rate to examine and cross-examine. It seems to me, government, you should be in a position now where you can give a true witness list to the defense and defense, it seems to me, defense can give a true witness list to the government and that should take place tomorrow. The defense needs some time, obviously, to review and react to whatever the government is saying is a genuine witness list.

Mr. Monteleoni.

MR. MONTELEONI: Yes, your Honor.

We did do that yesterday. Actually, we got a jump on the schedule that your Honor indicated and as a result of that we understand in our conversations with defense counsel today, that they will get us their true witness list tonight. And we think --

THE COURT: Better yet.

MR. MONTELEONI: But I do want to tee up one thing for

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1 your Honor. Because of the number of witnesses for whom I
2 think that we had asked for a proffer about the subject matter
3 of their statements --

4 THE COURT: It's time for proffers, yes. Go ahead.

5 MR. MONTELEONI: We haven't gotten them yet.

6 THE COURT: I want proffers on the defense witnesses.
7 Go ahead.

8 MR. MONTELEONI: Yes. We absolutely do. It is
9 possible, we are having -- we are scheduling discussions with
10 defense about this, that there will be -- that there will still
11 be issues after we have those discussions with the defense that
12 are going to result in a motion by us to preclude certain areas
13 of testimony. We are trying to narrow, trying to schedule it,
14 proffers will definitely help that process, but I think that it
15 is quite plausible that there will be remaining issues.

16 THE COURT: If there are, there are. But I want you
17 to have as complete discussions as possible and then make the
18 motion.

19 Sir?

20 MR. FEE: I just wanted to check if their estimate is
21 still sometime Wednesday or Thursday? I would note because
22 they're --

23 THE COURT: Estimate for what, sir?

24 MR. FEE: For when they're going to rest. The
25 shortened list, the list that is supposed to be shortened, has

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13 witnesses remaining, which sounds longer than Wednesday.

THE COURT: It does sound longer and the estimate we gave -- I mean, on which we based the statement to the jury that we expect to have this case to be in the hands of the jury for their consideration by the end of the week of July 8 was based on the estimate of the government closing on June 25, which is Tuesday.

MR. MONTELEONI: Yes, your Honor. Let me say this. We have been beating all of our internal estimates for our testimony. We estimated to the Court that Special Agent van Wie's testimony --

THE COURT: Three hours, I was watching.

MR. MONTELEONI: Three or four hours, it was two hours and 23 minutes.

THE COURT: No, the estimate was two to three hours and you basically hit the three-hour mark; yes.

MR. MONTELEONI: Your Honor, I think in the letter we said three to four hours. Then yesterday I said please don't -- or Tuesday I said please don't told me to this but I think it will be under three. It was two hours and 23.

THE COURT: We don't have to debate that. Everybody need be as efficient as possible.

Do you think you will be resting on June 25?

MR. MONTELEONI: I think that the 25th is unlikely but I think that perhaps the next day. It really is going to

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1 depend a lot on the length of cross. Every day after we see
2 how the day is shaped up, we sit down and we honestly talk
3 about is there any way we can shorten this stuff. We are going
4 to do that again today.

5 THE COURT: All right. And I need the defense to be
6 doing it as well. Presumably you are doing that.

7 MR. FEE: Yes, your Honor.

8 THE COURT: OK. And then we can talk -- so, the
9 government will give its witness list tonight to the
10 government, a real witness list. I really would like to see
11 the real government list fewer than what you say it was,
12 Mr. Fee, 13.

13 MR. FEE: 13.

14 THE COURT: It really should be fewer if we are going
15 to hit our marks vis-à-vis this jury. And then, when
16 appropriate, you will tee up any motions about preclusion for
17 the defense witnesses. I want proffers to be made for the
18 defense witnesses to the government, immediately, and then on
19 Monday we will discuss whether or not I should revise our
20 estimate to this jury.

21 Enjoy the next three days. Enjoy the longest day of
22 the year. I will see everybody on Monday at 9:30. Thank you.

23 (Adjourned to June 24, 2024, at 9:30 a.m.)

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